

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 299
AND
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 616
94TH GENERAL ASSEMBLY

Reported from the Committee on Local Government May 3, 2007 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 299 and Senate Substitute for Senate Committee Substitute for Senate Bill No. 616 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1526L.05C

AN ACT

To repeal sections 311.070, 311.178, 311.190, 311.240, 311.420, and 311.462, RSMo, and to enact in lieu thereof eleven 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 311.070, 311.178, 311.190, 311.240, 311.420, and 311.462, RSMo,
2 are repealed and eleven new sections enacted in lieu thereof, to be known as sections 311.015,
3 311.070, 311.071, 311.178, 311.185, 311.190, 311.240, 311.297, 311.420, 311.462, and 311.489,
4 to read as follows:

311.015. Alcohol is, by law, an age-restricted product that is regulated differently
2 **than other products. The provisions of this chapter establish vital state regulation of the**
3 **sale and distribution of alcohol beverages in order to promote responsible consumption,**

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

4 **combat illegal underage drinking, and achieve other important state policy goals such as**
5 **maintaining an orderly marketplace composed of state-licensed alcohol producers,**
6 **importers, distributors, and retailers.**

311.070. 1. Distillers, wholesalers, winemakers, brewers or their employees, officers
2 or agents shall not, except as provided in this section, directly or indirectly, have any financial
3 interest in the retail business for sale of intoxicating liquors, and shall not, except as provided
4 in this section, directly or indirectly, loan, give away or furnish equipment, money, credit or
5 property of any kind, except ordinary commercial credit for liquors sold to such retail dealers.
6 However, notwithstanding any other provision of this chapter to the contrary, for the purpose of
7 the promotion of tourism, a distiller whose manufacturing establishment is located within this
8 state may apply for and the supervisor of liquor control may issue a license to sell intoxicating
9 liquor, as in this chapter defined, by the drink at retail for consumption on the premises where
10 sold; and provided further that the premises so licensed shall be in close proximity to the
11 distillery and may remain open between the hours of 6:00 a.m. and midnight, Monday through
12 Saturday and between the hours of 11:00 a.m. and 9:00 p.m., Sunday. The authority for the
13 collection of fees by cities and counties as provided in section 311.220, and all other laws and
14 regulations relating to the sale of liquor by the drink for consumption on the premises where
15 sold, shall apply to the holder of a license issued under the provisions of this section in the same
16 manner as they apply to establishments licensed under the provisions of section 311.085,
17 311.090, or 311.095.

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

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

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

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

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

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

30 (2) "Equipment and supplies", glassware (or similar containers made of other material),
31 dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice.
32 "Dispensing accessories" include standards, faucets, cold plates, rods, vents, taps, tap standards,
33 hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves;

34 (3) "**Permanent** point-of-sale advertising materials", advertising items designed to be
35 used within a retail business establishment **for an extended period of time** to attract consumer
36 attention to the products of a distiller, wholesaler, winemaker or brewer. Such materials **shall**
37 **only** include[, but are not limited to: posters, placards, designs,] inside signs (electric,
38 mechanical or otherwise), [window decorations, trays, coasters, mats, menu cards, meal checks,
39 paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars and alcoholic
40 beverage lists or menus] **mirrors, and sweepstakes/contest prizes displayed on the licensed**
41 **premises;**

42 (4) "Product display", wine racks, bins, barrels, casks, shelving or similar items the
43 primary function of which is to hold and display consumer products;

44 (5) "Promotion", an advertising and publicity campaign to further the acceptance and sale
45 of the merchandise or products of a distiller, wholesaler, winemaker or brewer;

46 (6) "**Temporary point-of-sale advertising materials**", advertising items designed
47 **to be used for short periods of time. Such materials include, but are not limited to:**
48 **banners, decorations reflecting a particular season or a limited-time promotion, or paper**
49 **napkins, coasters, cups, or menus.**

50 4. Notwithstanding other provisions contained herein, the distiller, wholesaler,
51 winemaker or brewer, or their employees, officers or agents may engage in the following
52 activities with a retail licensee licensed pursuant to this chapter or chapter 312, RSMo:

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

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

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

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

69 (2) Notwithstanding any provision of law to the contrary, the distiller, wholesaler,
70 winemaker or brewer may **provide**, give or sell any **permanent** point-of-sale advertising
71 materials, **temporary point-of-sale advertising materials**, and consumer advertising specialties
72 to a retail business if all the following requirements are met:

73 (a) The total value of all **permanent** point-of-sale advertising materials [and consumer
74 advertising specialties given or sold] **provided** to a retail business **by a distiller, wholesaler,**
75 **winemaker, or brewer** shall not exceed five hundred dollars per **calendar** year, per brand, per
76 retail outlet. The value of **permanent** point-of-sale advertising materials [and consumer
77 advertising specialties] is the actual cost to the distiller, wholesaler, winemaker or brewer who
78 initially purchased such item. Transportation and installation costs shall be excluded. **All**
79 **permanent point-of-sale advertising materials provided to a retailer shall be recorded, and**
80 **records shall be maintained for a period of three years;**

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

84 (c) All **permanent** point-of-sale advertising materials, **temporary point-of-sale**
85 **advertising materials**, and consumer advertising specialties shall bear in a conspicuous manner
86 substantial advertising matter about the product or the name of the distiller, wholesaler,
87 winemaker or brewer. The name, address and logos of the retail business may appear on the
88 **permanent** point-of-sale advertising materials, **temporary point-of-sale advertising materials**,
89 or the consumer advertising specialties; and

90 [(c)] (d) The distiller, wholesaler, winemaker or brewer shall not directly or indirectly
91 pay or credit the retail business for using or distributing the **permanent** point-of-sale advertising
92 materials, **temporary point-of-sale advertising materials**, or consumer advertising specialties
93 or for any incidental expenses arising from their use or distribution;

94 (3) A [malt beverage wholesaler or brewer] **distiller, wholesaler, winemaker, or**
95 **brewer** may give a gift not to exceed a value of one thousand dollars per year[, or sell something
96 of value] to a holder of a temporary permit as defined in section 311.482;

97 (4) The distiller, wholesaler, winemaker or brewer may sell equipment or supplies to a
98 retail business if all the following requirements are met:

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

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

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

(6) The distiller, wholesaler, winemaker or brewer may furnish, give or sell coil cleaning service to a retailer of distilled spirits, wine or malt beverages;

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

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

(b) The wholesaler shall keep a record of the name of the retailer and the quantity of each brand furnished or given to such retailer;

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

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

(8) The distiller, wholesaler, winemaker or brewer may package and distribute intoxicating beverages in combination with other nonalcoholic items as originally packaged by

the supplier for sale ultimately to consumers; notwithstanding any provision of law to the contrary, for the purpose of this subsection, intoxicating liquor and wine wholesalers are not required to charge for nonalcoholic items any more than the actual cost of purchasing such nonalcoholic items from the supplier;

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

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

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

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

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

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

(11) [Notwithstanding any other provision of law to the contrary,] Distillers, winemakers, wholesalers, brewers or retailers may conduct a local or national sweepstakes/contest upon a licensed retail premise. [However,] **The sweepstakes/contest prize dollar amount shall not be limited and can be displayed in a photo, banner, or other temporary point-of-sale advertising materials on a licensed premises, if the following requirements are met:**

(a) No money or something of value [may be] is given to the retailer for the privilege or opportunity of conducting the sweepstakes or contest; **and**

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

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

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

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

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

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

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

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

(e) Make payments for advertisements in programs or brochures issued by retail business associations [at a convention or trade show] if the total payments made for all such advertisements [do not exceed three hundred dollars per year for any retail business association] **are fair and reasonable;**

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

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

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

(i) **Donate or serve up to five hundred dollars per event of alcoholic products at retail business association activities; and**

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

(15) [The distiller, wholesaler, winemaker or brewer may sell its other merchandise which does not consist of intoxicating beverages to a retail business if the following requirements are met:

(a) The distiller, wholesaler, winemaker or brewer shall also be in business as a bona fide producer or vendor of such merchandise;

(b) The merchandise shall be sold at its fair market value;

(c) The merchandise is not sold in combination with distilled spirits, wines or malt beverages except as provided in this section;

(d) The acquisition or production costs of the merchandise shall appear on the purchase invoices or records of the distiller, wholesaler, winemaker or brewer; and

(e) The individual selling prices of merchandise and intoxicating beverages sold to a retail business in a single transaction shall be determined by commercial documents covering the sales transaction;

(16)] The distiller, wholesaler, winemaker or brewer may sell or give [an] **a permanent** outside sign to a retail business if the following requirements are met:

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

(b) The retail business shall not be compensated, directly or indirectly, for displaying the **permanent sign or a temporary banner; [and]**

(c) The cost of the **permanent** sign shall not exceed [four] **five** hundred dollars; **and**

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

[(17)] (16) A wholesaler may, but shall not be required to, exchange for an equal quantity of identical product or allow credit against outstanding indebtedness for intoxicating liquor with alcohol content of less than five percent by weight or nonintoxicating beer that was delivered in a damaged condition or damaged while in the possession of the retailer;

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

[(19)] (18) In addition to withdrawals authorized pursuant to subdivision [(18)] (17) of this subsection, to assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight and nonintoxicating beer in its undamaged original carton from the retailer's stock and give the retailer credit against outstanding indebtedness for the product if:

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

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

(c) To assure and control product quality, a wholesaler may, but not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight

or nonintoxicating beer, in a container with a capacity of four gallons or more, delivered but not used, if the wholesaler removes the product within seven days of the initial delivery; and

[(20)] **(19)** Nothing in this section authorizes consignment sales.

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

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

6. [All contracts entered into between] Distillers, wholesalers, brewers and winemakers, or their officers or directors[, in any way concerning any of their products, obligating such retail dealers to buy or sell only the products of any] shall not require, by agreement or otherwise, that any retailer purchase any intoxicating liquor from such distillers, wholesalers, brewers or winemakers [or obligating such retail dealers to buy or sell the major part of such products required by such retail vendors from any such distiller, brewer or winemaker shall be void and unenforceable in any court in this state] to the exclusion in whole or in part of intoxicating liquor sold or offered for sale by other distillers, wholesalers, brewers, or winemakers.

[6.] 7. Notwithstanding any other provisions of this chapter to the contrary, a distiller or wholesaler may install dispensing accessories at the retail business establishment, which shall include for the purposes of distilled spirits, equipment to properly preserve and serve premixed distilled spirit beverages only. To facilitate delivery to the retailer, the distiller or wholesaler may lend, give, rent or sell and the distiller or wholesaler may install or repair any of the following items or render to retail licensees any of the following services: coils and coil cleaning, draft arms, faucets and tap markers, taps, tap standards, tapping heads, hoses, valves and other minor tapping equipment components, and damage caused by any delivery excluding normal wear and tear. A complete record of equipment furnished and installed and repairs or

service made or rendered shall be kept by the distiller or wholesaler furnishing, making or rendering the same for a period of not less than one year.

[7. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary,] **8. Distillers, wholesalers, winemakers, brewers or their employees or officers shall be permitted to make contributions of money or merchandise to a licensed retail liquor dealer that is a charitable, fraternal, civic, service, veterans', or religious organization as defined in section 313.005, RSMo, or an educational institution if such contributions are unrelated to such organization's retail operations.**

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

10. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, a brewer or manufacturer, its employees, officers or agents may have a financial interest in the retail business for sale of intoxicating liquors and nonintoxicating beer at entertainment facilities owned, in whole or in part, by the brewer or manufacturer, its subsidiaries or affiliates including, but not limited to, arenas and stadiums used primarily for concerts, shows and sporting events of all kinds.

[9.] **11.** Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, for the purpose of the promotion of tourism, a wine manufacturer, its employees, officers or agents located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises where sold, if the premises so licensed is in close proximity to the winery. Such premises shall be closed during the hours specified under section 311.290 and may remain open between the hours of 9:00 a.m. and midnight on Sunday.

[10.] **12.** Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, for the purpose of the promotion of tourism, a person may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor by the drink at retail for consumption on the premises where sold, but seventy-five percent or more of the intoxicating liquor sold by such licensed person shall be Missouri-produced wines received from manufacturers licensed under section 311.190. Such premises may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday, and between the hours of 11:00 a.m. and 9:00 p.m. on Sundays.

311.071. 1. Distillers, wholesalers, winemakers, brewers, or their employees or officers may make contributions of money for special events where alcohol is sold at retail to a not-for-profit organization that:

- 4 **(1) Does not hold a liquor license;**
5 **(2) Less than forty percent of the members and officers are liquor licensees;**
6 **(3) Is registered with the secretary of state as a not-for-profit organization; and**
7 **(4) Of which no part of the net earnings or contributions inures to the benefit of**
8 **any private shareholder or any retail licensee member of such organization.**
9 **The contributions from distillers, wholesalers, winemakers, brewers, or their employees**
10 **or officers shall be used to pay special event infrastructure expenses unrelated to any retail**
11 **alcohol sales, which include, but are not limited to: security, sanitation, fencing,**
12 **entertainment, and advertising.**
13 **2. Any not-for-profit organization that receives contributions under this section**
14 **shall allow the division of alcohol and tobacco control full access to the organization's**
15 **records for audit purposes.**

311.178. 1. Any person possessing the qualifications and meeting the requirements of
2 this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on
3 the premises in a county of the first classification having a charter form of government and not
4 containing all or part of a city with a population of over three hundred thousand, may apply to
5 the supervisor of liquor control for a special permit to remain open on each day of the week until
6 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 11:00
7 a.m. The provisions of this section and not those of section 311.097 regarding the time of
8 closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the
9 premises on Sunday. The premises of such an applicant shall be located in an area which has
10 been designated as a convention trade area by the governing body of the county and the applicant
11 shall meet at least one of the following conditions:

- 12 (1) The business establishment's annual gross sales for the year immediately preceding
13 the application for extended hours equals one hundred fifty thousand dollars or more; or
14 (2) The business is a resort. For purposes of this subsection, a "resort" is defined as any
15 establishment having at least sixty rooms for the overnight accommodation of transient guests
16 and having a restaurant located on the premises.

17 2. Any person possessing the qualifications and meeting the requirements of this chapter
18 who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises
19 in a county of the third classification without a township form of government having a
20 population of more than twenty-three thousand five hundred but less than twenty-three thousand
21 six hundred inhabitants, a county of the third classification without a township form of
22 government having a population of more than nineteen thousand three hundred but less than
23 nineteen thousand four hundred inhabitants or a county of the first classification without a charter
24 form of government with a population of at least thirty-seven thousand inhabitants but not more

25 than thirty-seven thousand one hundred inhabitants, may apply to the supervisor of liquor control
26 for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the
27 following day. The time of opening on Sunday may be 11:00 a.m. The provisions of this section
28 and not those of section 311.097 regarding the time of closing shall apply to the sale of
29 intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The
30 applicant shall meet all of the following conditions:

31 (1) The business establishment's annual gross sales for the year immediately preceding
32 the application for extended hours equals one hundred thousand dollars or more;

33 (2) The business is a resort. For purposes of this subsection, a "resort" is defined as any
34 establishment having at least seventy-five rooms for the overnight accommodation of transient
35 guests, having at least three thousand square feet of meeting space and having a restaurant
36 located on the premises; and

37 (3) The applicant shall develop, and if granted a special permit shall implement, a plan
38 ensuring that between the hours of 1:30 a.m. and 3:00 a.m. no sale of intoxicating liquor shall
39 be made except to guests with overnight accommodations at the licensee's resort. The plan shall
40 be subject to approval by the supervisor of liquor control and shall provide a practical method
41 for the division of liquor control and other law enforcement agencies to enforce the provisions
42 of subsection 3 of this section.

43 3. While open between the hours of 1:30 a.m. and 3:00 a.m. under a special permit
44 issued pursuant to subsection 2 of this section, it shall be unlawful for a licensee or any employee
45 of a licensee to sell intoxicating liquor to or permit the consumption of intoxicating liquor by any
46 person except a guest with overnight accommodations at the licensee's resort.

47 4. An applicant granted a special permit pursuant to this section shall, in addition to all
48 other fees required by this chapter, pay an additional fee of three hundred dollars a year payable
49 at the time and in the same manner as its other license fees.

50 5. The provisions of this section allowing for extended hours of business shall not apply
51 in any incorporated area wholly located in any county of the first classification having a charter
52 form of government which does not contain all or part of a city with a population of over three
53 hundred thousand inhabitants until the governing body of such incorporated area shall have by
54 ordinance or order adopted the extended hours authorized by this section.

55 [6. The enactment of subsections 2, 3, and 4 of this section shall terminate January 1,
56 2007.]

**311.185. 1. Notwithstanding any rule, law, or regulation to the contrary, any
2 person currently licensed in this state or any other state as a wine manufacturer may apply
3 for and the supervisor of alcohol and tobacco control may issue a wine direct shipper
4 license, as provided in this section, which allows a wine manufacturer to ship up to two**

5 cases of wine per month directly to a resident of this state who is at least twenty-one years
6 of age for such resident's personal use and not for resale. Before sending any shipment to
7 a resident of this state, the wine manufacturer shall first obtain a wine direct shipper
8 license as follows:

9 (1) File an application with the division of alcohol and tobacco control; and

10 (2) Provide to the division of alcohol and tobacco control a true copy of its current
11 alcoholic beverage license issued in this state or any other state, as well as a copy of the
12 winery license from the Alcohol and Tobacco Tax and Trade Bureau.

13 2. All wine direct shipper licensees shall:

14 (1) Not ship more than two cases of wine per month to any person for his or her
15 personal use and not for resale;

16 (2) Not use any carrier for shipping of wine that is not licensed under this section;

17 (3) Only ship wine that is properly registered with the Alcohol and Tobacco Tax
18 and Trade Bureau;

19 (4) Only ship wine manufactured on the winery premises;

20 (5) Ensure that all containers of wine delivered directly to a resident of this state
21 are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF
22 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY" or are conspicuously
23 labeled with wording preapproved by the division of alcohol and tobacco control;

24 (6) If the winery is located outside of this state, by January thirty-first, make a
25 report under oath to the supervisor of alcohol and tobacco control setting out the total
26 amount of wine shipped into the state the preceding year;

27 (7) If the winery is located outside of this state, pay the division of alcohol and
28 tobacco control all excise taxes due on the amount to be calculated as if the sale were in this
29 state at the location where the delivery is made;

30 (8) If the winery is located within this state, provide the division of alcohol and
31 tobacco control any additional information deemed necessary beyond that already
32 required for retail sales from the winery tasting room to ensure compliance with this
33 section;

34 (9) Permit the division of alcohol and tobacco control to perform an audit of the
35 wine direct shipper licensees' records upon request; and

36 (10) Be deemed to have consented to the jurisdiction of the division of alcohol and
37 tobacco control or any other state agency and the Missouri courts concerning enforcement
38 of this section and any related laws, rules, or regulations.

39 **3. The wine direct shipper licensee may annually renew its license with the division**
40 **of alcohol and tobacco control by providing the division of alcohol and tobacco control all**
41 **required items provided in subsection 1 of this section.**

42 **4. Notwithstanding any law, rule, or regulation to the contrary, any carrier may**
43 **apply for and the supervisor of alcohol and tobacco control may issue an alcohol carrier**
44 **license, as provided in this section, which allows the carrier to transport and deliver**
45 **shipments of wine directly to a resident of this state who is at least twenty-one years of age**
46 **or older. Before transporting any shipment of wine to a resident of this state, the carrier**
47 **shall first obtain an alcohol carrier license by filing an application with the division of**
48 **alcohol and tobacco control.**

49 **5. All alcohol carrier licensees shall:**

50 **(1) Not deliver to any person under twenty-one years of age, or to any intoxicated**
51 **person, or any person appearing to be in a state of intoxication;**

52 **(2) Require valid proof of identity and age;**

53 **(3) Obtain the signature of an adult as a condition of delivery; and**

54 **(4) Keep records of wine shipped which include the license number and name of**
55 **the winery or retailer, quantity of wine shipped, recipient's name and address, and an**
56 **electronic or paper form of signature from the recipient of the wine.**

57 **6. The division of alcohol and tobacco control may promulgate rules to effectuate**
58 **the provisions of this section. Any rule or portion of a rule, as that term is defined in**
59 **section 536.010, RSMo, that is created under the authority delegated in this section shall**
60 **become effective only if it complies with and is subject to all of the provisions of chapter**
61 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**
62 **RSMo, are nonseverable and if any of the powers vested with the general assembly**
63 **pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and**
64 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
65 **authority and any rule proposed or adopted after August 28, 2007, shall be invalid and**
66 **void.**

 311.190. 1. For the privilege of manufacturing wine or brandy, which manufacturing
2 shall be in accordance with all provisions of federal law applicable thereto except as may
3 otherwise be specified in this section, in quantities not to exceed five hundred thousand gallons,
4 not in excess of eighteen percent of alcohol by weight for wine, or not in excess of thirty-four
5 percent of alcohol by weight for brandy, from grapes, berries, other fruits, fruit products, honey,
6 and vegetables produced or grown in the state of Missouri, exclusive of sugar, water and spirits,
7 there shall be paid to and collected by the director of revenue, in lieu of the charges provided in

8 section 311.180, a license fee of five dollars for each five hundred gallons or fraction thereof of
9 wine or brandy produced up to a maximum license fee of three hundred dollars.

10 2. Notwithstanding the provisions of subsection 1 of this section, a manufacturer
11 licensed under this section may use in any calendar year such wine- and brandy-making material
12 produced or grown outside the state of Missouri in a quantity not exceeding fifteen percent of
13 the manufacturer's wine entered into fermentation in the prior calendar year.

14 3. In any year when a natural disaster causes substantial loss to the Missouri crop of
15 grapes, berries, other fruits, fruit products, honey or vegetables from which wines are made, the
16 director of the department of agriculture shall determine the percent of loss and allow a certain
17 additional percent, based on the prior calendar year's production of such products, to be
18 purchased outside the state of Missouri to be used and offered for sale by Missouri wineries.

19 4. A manufacturer licensed under this section may purchase and sell bulk or packaged
20 wines or brandies received from other manufacturers licensed under this section and may also
21 purchase in bulk, bottle and sell to duly licensed wineries, wholesalers and retail dealers on any
22 day except Sunday, and a manufacturer licensed under this section may offer samples of wine,
23 may sell wine and brandy in its original package directly to consumers at the winery, and may
24 open wine so purchased by customers so that it may be consumed on the winery premises on
25 Monday through Saturday between 6:00 a.m. and midnight and on Sunday between [11:00 a.m.]
26 **9:00 a.m.** and 10:00 p.m.

311.240. 1. On approval of the application and payment of the license tax provided in
2 this chapter, the supervisor of liquor control shall grant the applicant a license to conduct
3 business in the state for a term to expire with the thirtieth day of June next succeeding the date
4 of such license. A separate license shall be required for each place of business. Of the license
5 tax to be paid for any such license, the applicant shall pay as many twelfths as there are months
6 (part of a month counted as a month) remaining from the date of the license to the next
7 succeeding July first.

8 2. No such license shall be effective, and no right granted thereby shall be exercised by
9 the licensee, unless and until the licensee shall have obtained and securely affixed to the license
10 in the space provided therefor an original stamp or other form of receipt issued by the duly
11 authorized representative of the federal government, evidencing the payment by the licensee to
12 the federal government of whatever excise or occupational tax is by any law of the United States
13 then in effect required to be paid by a dealer engaged in the occupation designated in said license.
14 Within ten days from the issuance of said federal stamp or receipt, the licensee shall file with the
15 supervisor of liquor control a photostat copy thereof, or such duplicate or indented and numbered
16 stub therefrom as the federal government may have issued to the taxpayer with the original.

17 3. Every license issued under the provisions of this chapter shall particularly describe
18 the premises at which intoxicating liquor may be sold thereunder, and such license shall not be
19 deemed to authorize or permit the sale of intoxicating liquor at any place other than that
20 described therein.

21 4. Applications for renewal of licenses must be filed on or before the first day of May
22 of each calendar year.

23 **5. In case of failure to submit the completed renewal application required under**
24 **subsection 4 of this section on or before the first day of May, there shall be added to the**
25 **amount of the renewal fee a late charge of one hundred dollars from the second day of May**
26 **to the last day of May; a late charge of two hundred dollars if the renewal application is**
27 **submitted on the first day of June to the last day of June; or a late charge of three hundred**
28 **dollars if the renewal application is submitted after the last day of June.**

311.297. 1. Any winery, distiller, manufacturer, wholesaler, or brewer or
2 **designated employee may provide and pour distilled spirits, wine, or malt beverage**
3 **samples off a licensed retail premises for tasting purposes provided no sales transactions**
4 **take place. For purposes of this section, a sales transaction shall mean an actual and**
5 **immediate exchange of monetary consideration for the immediate delivery of goods at the**
6 **tasting site.**

7 **2. Notwithstanding any other provisions of this chapter to the contrary, any winery,**
8 **distiller, manufacturer, wholesaler, or brewer or designated employee may provide,**
9 **furnish, or pour distilled spirits, wine, or malt beverage samples for customer tasting**
10 **purposes on any temporary licensed retail premises as described in section 311.218,**
11 **311.482, 311.485, 311.486, or 311.487, or on any tax exempt organization's licensed**
12 **premises as described in section 311.090.**

311.420. 1. No person, except carriers regulated by the motor carrier and railroad safety
2 **division of the department of economic development under chapters 387, 389 and 390, RSMo,**
3 **shall transport into, within, or through the state of Missouri any intoxicating liquors in quantities**
4 **larger than five gallons unless such person holds a valid license or permit from the supervisor**
5 **of [liquor] alcohol and tobacco control of the state of Missouri to do so. For such license, there**
6 **shall be paid to the director of revenue the sum of ten dollars per annum. Application for such**
7 **license shall be made to the supervisor of [liquor] alcohol and tobacco control of the state of**
8 **Missouri and each applicant shall submit with his application a bond in the penal sum of one**
9 **thousand dollars with sufficient surety to be approved by the supervisor of [liquor] alcohol and**
10 **tobacco control, conditioned that he will not violate any provisions of the liquor control laws of**
11 **this state or any regulation promulgated under such liquor control laws, and any violation of such**
12 **condition shall work a forfeiture of such bond to the state of Missouri. The license year shall end**

13 on June thirtieth, and the applicant shall pay as many twelfths as there are months, with each part
14 of a month being counted as a month, remaining from the date of the license to the next
15 succeeding July first. The supervisor of [liquor] **alcohol and tobacco** control may issue single
16 transaction licenses, for which there shall be paid to the director of revenue the sum of five
17 dollars, and, if the value of the liquor to be transported exceeds one hundred dollars, the permit
18 shall not be issued until the bond provided for above in this section is given to the state. No such
19 transporter's license shall be required of any person licensed by the supervisor of [liquor] **alcohol**
20 **and tobacco** control whose licensed premises are located in the state of Missouri, nor shall it be
21 necessary to procure a license to transport liquor purchased from a retail liquor dealer duly
22 licensed by the supervisor of [liquor] **alcohol and tobacco** control of the state of Missouri. No
23 license or permit shall be required to transport industrial alcohol.

24 2. The qualifications prescribed for the issuance of other licenses by the provisions of
25 the liquor control law shall not apply to licenses issued under this section, but no license shall
26 be issued to any person who is not of good moral character or who has been convicted since the
27 ratification of the twenty-first amendment to the Constitution of the United States of the violation
28 of any law applicable to the manufacture or sale of intoxicating liquor, nor to any person who
29 has had a license from the supervisor of [liquor] **alcohol and tobacco** control revoked. If
30 applicant is a corporation, the managing officer thereof must possess the qualifications
31 prescribed in this section.

32 **3. Carriers licensed under this section or carriers exempt from holding a permit**
33 **under this section shall not deliver wine to a resident of this state without obtaining an**
34 **alcohol carrier license under section 311.185.**

311.462. 1. Notwithstanding any other provision of law, [an adult resident or] a holder
2 of [an] a **retailer** alcoholic beverage license in this state or a state which affords Missouri
3 licensees [or adult residents] an equal reciprocal shipping privilege may ship, for personal use
4 and not for resale, not more than two cases of wine, each case containing not more than nine
5 liters, per year to any adult resident of this state. Delivery of a shipment pursuant to this section
6 shall not be deemed to constitute a sale in this state.

7 2. The shipping container of any wine sent into or out of this state under this section shall
8 be clearly labeled to indicate that the package cannot be delivered to a person under the age of
9 twenty-one years or to an intoxicated person.

10 3. No broker within this state may solicit consumers to engage in interstate reciprocal
11 wine shipments under this section. No shipper located outside this state may advertise such
12 interstate reciprocal wine shipments in this state.

311.489. 1. A festival district special license for the sale of intoxicating liquor as
2 **defined in section 311.020, and nonintoxicating beer as defined in section 312.010, RSMo,**

3 for consumption on premises where sold may be issued to any festival district that includes
4 three or more businesses that are licensed bars, nightclubs, restaurants, or other
5 entertainment venues and a common area that is closed to vehicle traffic, provided that the
6 festival district special license is held by a promotional association. A "promotional
7 association" is defined as an entity, incorporated in the state of Missouri, organized or
8 authorized by property owners who own or operate fifty percent of the square footage
9 located within the proposed district for the purpose of organizing and promoting activities
10 within the festival district.

11 2. The promotional association may apply for a festival district special license if the
12 promotional association submits a plan to the governing municipality and the governing
13 municipality approves the plan by a majority vote of its legislative body. The plan must
14 contain the legal description of the district, the name and address of each property owner
15 participating in or authorizing the promotional association, the intended calendar of events
16 for the district not to exceed forty total days per calendar year, a description of the
17 proposed festival activities, proof of adequate insurance, and a description of security for
18 any proposed festivals. Such plan may not be amended during the year.

19 3. If the plan is approved, any person acting on behalf of or designated by a
20 promotional association, who possesses the qualifications required by this chapter, and
21 who meets the requirements of and complies with the provisions of this chapter, may apply
22 for, and the supervisor of alcohol and tobacco control may issue a festival district special
23 license to sell liquor for consumption within the district common areas between 9:00 a.m.
24 and 1:00 a.m. on Monday through Saturday and between 11:00 a.m. and 12:00 a.m. on
25 Sunday. However, if a promotional association is issued a license to sell intoxicating liquor
26 under section 311.096, a festival district special license may allow for the conducting of
27 sales within the hours of operation designated by such license. Such promotional
28 association may permit customers to leave an establishment within the district after
29 purchasing an alcoholic beverage and consume the beverage in the district common areas
30 or another licensed establishment within the district. No person shall be allowed to take
31 any alcoholic beverage outside the boundaries of the festival district. Such festival district
32 special licenses shall cost three hundred dollars per year.

33 4. If participating in a promotional association event, every bar, nightclub,
34 restaurant, promotional association, or other entertainment venue that serves alcoholic
35 beverages within the festival district shall use disposable paper, plastic, or foam cups or
36 other light-weight containers for all alcoholic beverages that the bar, nightclub, restaurant,
37 promotional association, or other entertainment venue sells within the festival district
38 boundaries for consumption in the district common area. Such containers must display

39 and contain the licensee's trade name or logo or some other mark that is unique to that
40 license and licensee.

41 5. If minors are allowed to enter the festival district, the promotional association
42 shall ensure that such minors are easily distinguished from persons of legal age to buy
43 alcoholic beverages.

44 6. The holder of the festival district special license is solely responsible for any
45 alcohol violations occurring within the common areas. For any violation of this chapter
46 or of any rule or regulation of the supervisor of alcohol and tobacco control, the
47 promotional association may be assessed a civil fine of not more than five thousand dollars.
48 If a promotional association is found to be responsible for such violations at three separate
49 events, then such promotional association's festival district special license shall be revoked
50 and not reissued. The promotional association's then current plan shall be deemed
51 terminated, and the businesses participating in the promotional association's events shall
52 not participate in activities permitted by subsection 3 of this section.

53 7. Festival district special licenses issued under this section shall be limited to the
54 dates approved by the governing municipality not to exceed forty total days per calendar
55 year.

56 8. Nothing in this section shall be construed or applied to affect entertainment
57 districts or promotional associations created under section 311.086.

58 9. Festival district special licenses shall be valid for a period of one year. Renewal
59 of festival district special licenses shall require a promotional association to comply with
60 subsections 2 and 3 of this section.

✓