

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 944
94TH GENERAL ASSEMBLY

Reported from the Committee on Local Government April 4, 2007 with recommendation that House Committee Substitute for House Bill No. 944 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

2158L.03C

AN ACT

To repeal sections 311.420 and 311.462, RSMo, and to enact in lieu thereof three new sections relating to the shipping of liquor, with penalty provisions.

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

Section A. Sections 311.420 and 311.462, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 311.185, 311.420, and 311.462, to read as
3 follows:

**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 Missouri 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 Missouri, 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:**

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.

- 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 Trade
18 and Tax Bureau;
- 19 (4) Only ship wine manufactured on the winery premises;
- 20 (5) Ensure that all containers of beverage alcohol delivered directly to a resident
21 of this state are conspicuously labeled with the words "CONTAINS ALCOHOL:
22 SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY" or
23 labels shall be submitted to the division of alcohol and tobacco control for preapproval;
- 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 of this section;
- 33 (9) Permit the division of alcohol and tobacco control to perform an audit of the
34 wine direct shipper licensees' records upon request; and
- 35 (10) Be deemed to have consented to the jurisdiction of the division of alcohol and
36 tobacco control or any other state agency and the Missouri courts concerning enforcement
37 of this section and any related laws, rules, or regulations.
- 38 3. The wine direct shipper licensee may annually renew with the division of alcohol
39 and tobacco control by providing the division of alcohol and tobacco control all required
40 items provided in subsection 1 of this section.
- 41 4. Notwithstanding any law, rule, or regulation to the contrary, any carrier may
42 apply for and the supervisor of alcohol and tobacco control may issue an alcohol carrier
43 license, as provided in this section, which allows the carrier to transport and deliver
44 shipments of alcohol directly to a resident of Missouri who is at least twenty-one years of
45 age or older. Before transporting any shipment of alcohol to a resident of Missouri, the
46 carrier shall first obtain an alcohol carrier license by filing an application with the division
47 of alcohol and tobacco control.
- 48 5. All alcohol carrier licensees shall:

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

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

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

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

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

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 control of the state of Missouri to do so. For such license, there shall be paid to the
6 director of revenue the sum of ten dollars per annum. Application for such license shall be made
7 to the supervisor of liquor control of the state of Missouri and each applicant shall submit with
8 his application a bond in the penal sum of one thousand dollars with sufficient surety to be
9 approved by the supervisor of liquor control, conditioned that he will not violate any provisions
10 of the liquor control laws of this state or any regulation promulgated under such liquor control
11 laws, and any violation of such condition shall work a forfeiture of such bond to the state of
12 Missouri. The license year shall end on June thirtieth, and the applicant shall pay as many
13 twelfths as there are months, with each part of a month being counted as a month, remaining
14 from the date of the license to the next succeeding July first. The supervisor of liquor control
15 may issue single transaction licenses, for which there shall be paid to the director of revenue the
16 sum of five dollars, and, if the value of the liquor to be transported exceeds one hundred dollars,
17 the permit shall not be issued until the bond provided for above in this section is given to the
18 state. No such transporter's license shall be required of any person licensed by the supervisor of
19 liquor control whose licensed premises are located in the state of Missouri, nor shall it be

20 necessary to procure a license to transport liquor purchased from a retail liquor dealer duly
21 licensed by the supervisor of liquor control of the state of Missouri. No license or permit shall
22 be required to transport industrial alcohol.

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

30 **3. Carriers licensed under this section or carriers exempt from holding a permit**
31 **under this section shall not deliver alcohol to a consumer of this state without obtaining an**
32 **alcohol carrier license under subsection 4 of 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] **that has entered into**
4 **a reciprocal shipping agreement with the supervisor of alcohol and tobacco control may**
5 **apply for and the supervisor of alcohol and tobacco control may issue a retail wine direct**
6 **shipper license, as provided in this section, which allows the retailer to ship, for personal use**
7 and not for resale, not more than two cases of wine, each case containing not more than nine
8 liters, per [year] **month** to any [adult] resident of this state **who is at least twenty-one years of**
9 **age.** Delivery of a shipment pursuant to this section shall [not be deemed to] constitute a sale
10 in this state. **Before sending any shipment to a resident of Missouri, the retailer shall first**
11 **obtain a retail wine direct shipper license as follows:**

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

13 **(2) Provide to the division of alcohol and tobacco control a true copy of its current**
14 **alcoholic beverage license issued in this or any reciprocal state.**

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

18 3. No broker within this state may solicit consumers to engage in interstate reciprocal
19 wine shipments under this section. No shipper located outside this state may advertise such
20 interstate reciprocal wine shipments in this state.] **All retail wine direct shipper licensees shall:**

21 **(1) Not ship more than two cases of wine, each case containing not more than nine**
22 **liters, per month to any person for his or her personal use and not for resale;**

23 (2) Not use any carrier for shipping of wine that is not licensed under subsection
24 **5 of section 311.185;**

25 (3) Ensure that all containers of wine delivered directly to a resident in this state
26 are conspicuously labeled with the words "**CONTAINS ALCOHOL: SIGNATURE OF**
27 **PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY**" or labels shall be
28 submitted to the division of alcohol and tobacco control for preapproval;

29 (4) Keep records of wine delivered to include quantity of wine delivered, recipient's
30 name and address, and electronic paper form of signature from the recipient of the alcohol;

31 (5) If the retailer is located outside of this state by January thirty-first, make a
32 report under oath to the supervisor of alcohol and tobacco control setting out the total
33 amount of wine shipped into the state the preceding year;

34 (6) If the retailer is located outside of this state, pay the division of alcohol and
35 tobacco control all excise taxes due on the amount to be calculated as if the sale were in
36 Missouri at the location where the delivery is made;

37 (7) If the retailer is located within this state, provide the division of alcohol and
38 tobacco control any additional information deemed necessary beyond that already
39 required for retail sales to ensure compliance with this section;

40 (8) Permit the division of alcohol and tobacco control to perform an audit of the
41 retail wine direct shipper licensees' records upon request; and

42 (9) Be deemed to have consented to the jurisdiction of the division of alcohol and
43 tobacco control or any other state agency and the Missouri courts concerning enforcement
44 of this section and any related laws, rules, or regulation.

45 3. The retail wine direct shipper licensee may annually renew its license with the
46 division of alcohol and tobacco control by providing the division of alcohol and tobacco
47 control all required items as stated in subsection 1 of this section.

48 4. Any person who sells to any consumer in this state any intoxicating liquor
49 without first having procured a license from the supervisor of alcohol and tobacco control
50 authorizing the sale of such intoxicating liquor shall be subject to the felony penalties
51 imposed by subsection 6 of section 311.550.

52 5. All advertising of direct wine sales and shipping to consumers shall comply with
53 Missouri state statutes and regulations.

54 6. Any retail wine direct shipper who violates any of the provisions of the liquor
55 control laws or regulations, except where otherwise provided, shall be subject to
56 disciplinary administrative actions or criminal penalties under sections 311.680 and
57 311.880.

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