

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Committee Substitute for Senate Bill No. 404, Page 1, Section A, Line 1, by
2 inserting immediately after said line the following:

3 "311.070. 1. Distillers, wholesalers, winemakers, brewers or their employees, officers or
4 agents shall not, except as provided in this section, directly or indirectly, have any financial interest
5 in the retail business for sale of intoxicating liquors, and shall not, except as provided in this section,
6 directly or indirectly, loan, give away or furnish equipment, money, credit or property of any kind,
7 except ordinary commercial credit for liquors sold to such retail dealers. However, notwithstanding
8 any other provision of this chapter to the contrary, for the purpose of the promotion of tourism, a
9 distiller whose manufacturing establishment is located within this state may apply for and the
10 supervisor of liquor control may issue a license to sell intoxicating liquor, as in this chapter defined,
11 by the drink at retail for consumption on the premises where sold; and provided further that the
12 premises so licensed shall be in close proximity to the distillery and may remain open between the
13 hours of 6:00 a.m. and ~~[midnight]~~ 1:30 a.m., Monday through Saturday and between the hours of
14 ~~[11:00]~~ 9:00 a.m. and ~~[9:00 p.m.]~~ midnight, Sunday. The authority for the collection of fees by
15 cities and counties as provided in section 311.220, and all other laws and regulations relating to the
16 sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder of
17 a license issued under the provisions of this section in the same manner as they apply to
18 establishments licensed under the provisions of section 311.085, 311.090, or 311.095.

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

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

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

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

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

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

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

35 (3) "Permanent point-of-sale advertising materials", advertising items designed to be used
36 within a retail business establishment for an extended period of time to attract consumer attention to

Action Taken _____ Date _____

1 the products of a distiller, wholesaler, winemaker or brewer. Such materials shall only include
2 inside signs (electric, mechanical or otherwise), mirrors, and sweepstakes/contest prizes displayed
3 on the licensed premises;

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

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

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

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

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

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

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

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

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

35 (a) The total value of all permanent point-of-sale advertising materials provided to a retail
36 business by a distiller, wholesaler, winemaker, or brewer shall not exceed five hundred dollars per
37 calendar year, per brand, per retail outlet. The value of permanent point-of-sale advertising
38 materials is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased
39 such item. Transportation and installation costs shall be excluded. All permanent point-of-sale
40 advertising materials provided to a retailer shall be recorded, and records shall be maintained for a
41 period of three years;

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

45 (c) All permanent point-of-sale advertising materials, temporary point-of-sale advertising
46 materials, and consumer advertising specialties shall bear in a conspicuous manner substantial
47 advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer.
48 The name, address and logos of the retail business may appear on the permanent point-of-sale

1 advertising materials, temporary point-of-sale advertising materials, or the consumer advertising
2 specialties; and

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

7 (3) A distiller, wholesaler, winemaker, or brewer may give a gift not to exceed a value of
8 one thousand dollars per year to a holder of a temporary permit as defined in section 311.482;

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

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

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

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

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

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

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

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

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

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

48 (8) The distiller, wholesaler, winemaker or brewer may package and distribute intoxicating

1 beverages in combination with other nonalcoholic items as originally packaged by the supplier for
2 sale ultimately to consumers; notwithstanding any provision of law to the contrary, for the purpose
3 of this subsection, intoxicating liquor and wine wholesalers are not required to charge for
4 nonalcoholic items any more than the actual cost of purchasing such nonalcoholic items from the
5 supplier;

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

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

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

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

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

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

18 (11) Distillers, winemakers, wholesalers, brewers or retailers may conduct a local or
19 national sweepstakes/contest upon a licensed retail premise. The sweepstakes/contest prize dollar
20 amount shall not be limited and can be displayed in a photo, banner, or other temporary point-of-
21 sale advertising materials on a licensed premises, if the following requirements are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 5. (1) A distiller, wholesaler, winemaker, or brewer that is also in business as a bona fide
47 producer or vendor of nonalcoholic beverages shall not condition the sale of its alcoholic beverages
48 on the sale of its nonalcoholic beverages nor combine the sale of its alcoholic beverages with the

1 sale of its nonalcoholic beverages, except as provided in subdivision (8) of subsection 4 of this
2 section. The distiller, wholesaler, winemaker, or brewer that is also in business as a bona fide
3 producer or vendor of nonalcoholic beverages may sell, credit, market, and promote nonalcoholic
4 beverages in the same manner in which the nonalcoholic products are sold, credited, marketed, or
5 promoted by a manufacturer or wholesaler not licensed by the supervisor of alcohol and tobacco
6 control;

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

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

17 7. Notwithstanding any other provisions of this chapter to the contrary, a distiller or
18 wholesaler may install dispensing accessories at the retail business establishment, which shall
19 include for the purposes of distilled spirits equipment to properly preserve and serve premixed
20 distilled spirit beverages only. To facilitate delivery to the retailer, the distiller or wholesaler may
21 lend, give, rent or sell and the distiller or wholesaler may install or repair any of the following items
22 or render to retail licensees any of the following services: coils and coil cleaning, draft arms,
23 faucets and tap markers, taps, tap standards, tapping heads, hoses, valves and other minor tapping
24 equipment components, and damage caused by any delivery excluding normal wear and tear. A
25 complete record of equipment furnished and installed and repairs or service made or rendered shall
26 be kept by the distiller or wholesaler furnishing, making or rendering the same for a period of not
27 less than one year.

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

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

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

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

46 12. For the purpose of the promotion of tourism, a person may apply for and the supervisor
47 of liquor control may issue a license to sell intoxicating liquor by the drink at retail for consumption
48 on the premises where sold, but seventy-five percent or more of the intoxicating liquor sold by such

1 licensed person shall be Missouri-produced wines received from manufacturers licensed under
2 section 311.190. Such premises may remain open between the hours of 6:00 a.m. and midnight,
3 Monday through Saturday, and between the hours of 11:00 a.m. and 9:00 p.m. on Sundays."; and
4
5 Further amend said bill by amending the title, enacting clause, and intersectional references
6 accordingly.