

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 2364, Page 1, Section 311.020, Line 10,
2 by inserting after all of said section and line the following:

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

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

23 (1) For the first offense, by a fine of one thousand dollars;
24 (2) For a second offense, by a fine of five thousand dollars; and
25 (3) For a third or subsequent offense, by a fine of ten thousand dollars or the license of such
26 person shall be revoked.

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

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

32 (2) "Equipment and supplies", glassware (or similar containers made of other material),
33 table umbrellas, dispensing accessories, carbon dioxide (and other gasses used in dispensing
34 equipment), or ice. "Dispensing accessories" include, but are not limited to, items such as
35 standards, [faucets, cold plates,] rods, [vents,] taps, tap standards, [hoses, washers, couplings, gas
36 gauges,] vent tongues, [shanks, and] check valves, portable coil boxes, air pumps, tubs, blankets,

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1 coolers, rolling coolers, portable bars, agitating tanks, carbon dioxide and nitrogen-driven cold
 2 plates or jockey boxes, tents not to exceed ten square feet in size, or other coverings for the
 3 temporary wrapping of barrels;

4 (3) "Nonrefrigeration keg flow accessories" include, tap markers, regulators, gauges, vents,
 5 nuts, clamps, splicers, keg stickers, washers, couplings, shanks, faucets, non-insulated intoxicating
 6 liquor hoses, air hoses, and wall brackets;

7 (4) "Permanent point-of-sale advertising materials", advertising items designed to be used
 8 within a retail business establishment for an extended period of time to attract consumer attention to
 9 the products of a distiller, wholesaler, winemaker, or brewer. Such materials shall only include
 10 inside signs (electric, mechanical or otherwise), mirrors, and sweepstakes/contest prizes displayed
 11 on the licensed premises;

12 [(4)] (5) "Product display", wine racks, bins, barrels, casks, shelving, or similar items the
 13 primary function of which is to hold and display consumer products;

14 [(5)] (6) "Promotion", an advertising and publicity campaign to further the acceptance and
 15 sale of the merchandise or products of a distiller, wholesaler, winemaker, or brewer;

16 [(6)] (7) "Temporary point-of-sale advertising materials", advertising items designed to be
 17 used for short periods of time. Such materials include, but are not limited to: banners, decorations
 18 reflecting a particular season or a limited-time promotion, or paper napkins, coasters, cups, ice
 19 buckets, condiment caddies, napkin holders, bar rail mats, shakers, salt rimmers, or menus.

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

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

25 (a) The total value of all product displays given or sold to a retail business shall not exceed
 26 ~~[three]~~ four hundred dollars per brand at any one time in any one retail outlet. There shall be no
 27 combining or pooling of the ~~[three]~~ four hundred dollar limits to provide a retail business a product
 28 display in excess of ~~[three]~~ four hundred dollars per brand. The value of a product display is the
 29 actual cost to the distiller, wholesaler, winemaker, or brewer who initially purchased such product
 30 display. Transportation and installation costs shall be excluded;

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

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

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

43 (a) The total value of all permanent point-of-sale advertising materials provided to a retail
 44 business by a distiller, wholesaler, winemaker, or brewer shall not exceed ~~[five]~~ seven hundred
 45 dollars per calendar year, per brand, per retail outlet. The replacement of similar in appearance,
 46 type, and dollar value permanent point-of-sale advertising materials that are damaged and
 47 nonfunctioning shall not count towards the maximum of seven hundred dollars per calendar year,
 48 per brand, per retail outlet. The value of permanent point-of-sale advertising materials is the actual

1 cost to the distiller, wholesaler, winemaker, or brewer who initially purchased such item.

2 Transportation and installation costs shall be excluded. All permanent point-of-sale advertising
3 materials provided to a retailer shall be recorded, and records shall be maintained for a period of
4 ~~[three]~~ two years;

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

8 (c) All permanent point-of-sale advertising materials, temporary point-of-sale advertising
9 materials, and consumer advertising specialties shall bear in a conspicuous manner substantial
10 advertising matter about the product or the name of the distiller, wholesaler, winemaker, or brewer.
11 The name, address and logos of the retail business may appear on the permanent point-of-sale
12 advertising materials, temporary point-of-sale advertising materials, or the consumer advertising
13 specialties; and

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

18 (3) A distiller, wholesaler, winemaker, or brewer may give a gift not to exceed a value of
19 one thousand dollars per year to a holder of a temporary permit as ~~[defined]~~ described in section
20 311.482;

21 (4) The distiller, wholesaler, winemaker, or brewer may sell equipment ~~[or]~~ and supplies to
22 a retail business if all the following requirements are met:

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

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

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

41 (a) All other dispensing accessories as described in this section that are installed by a
42 wholesaler or brewer to a retailer shall be sold in the same manner as other equipment and supplies,
43 or may be loaned by a wholesaler or brewer to a retailer only if a deposit is given by the retailer in
44 an amount that covers the cost of such dispensing accessories, and the deposit shall not be refunded
45 to the retailer until such loaned dispensing accessories are returned to the wholesaler or brewer. An
46 actual deposit payment, other than a charge to a retailer's account, shall be received if the dispensing
47 accessories are loaned for more than ten days within a thirty day period; and

48 (b) A complete record of dispensing accessories and nonrefrigeration keg flow accessories

1 given, rented, sold, installed, and loaned, and repairs and services made to a retailer shall be retained
2 for a period of not less than two years by the wholesaler or brewer;

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

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

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

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

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

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

23 (8) The distiller, wholesaler, winemaker, or brewer may package and distribute intoxicating
24 beverages in combination with other nonalcoholic items as originally packaged by the supplier for
25 sale ultimately to consumers; notwithstanding any provision of law to the contrary, for the purpose
26 of this subsection, intoxicating liquor and wine wholesalers are not required to charge for
27 nonalcoholic items any more than the actual cost of purchasing such nonalcoholic items from the
28 supplier;

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

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

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

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

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

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

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

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

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

1 section;

2 (12) The distiller, wholesaler, winemaker₂ or brewer may stock, rotate, rearrange or reset the
3 products sold by such distiller, wholesaler, winemaker₂ or brewer at the establishment of the retail
4 business so long as the products of any other distiller, wholesaler, winemaker or brewer are not
5 altered or disturbed;

6 (13) The distiller, wholesaler, winemaker₂ or brewer may provide a recommended shelf plan
7 or shelf schematic for distilled spirits, wine₂ or malt beverages;

8 (14) The distiller, wholesaler, winemaker₂ or brewer participating in the activities of a retail
9 business association may do any of the following:

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

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

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

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

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

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

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

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

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

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

32 (15) The distiller, wholesaler, winemaker₂ or brewer may sell or give a permanent outside
33 sign to a retail business if the following requirements are met:

34 (a) The sign, which shall be constructed of metal, glass, wood, plastic, or other durable,
35 rigid material, with or without illumination, or painted or otherwise printed onto a rigid material or
36 structure, shall bear in a conspicuous manner substantial advertising matter about the product or the
37 name of the distiller, wholesaler, winemaker₂ or brewer;

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

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

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

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

(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 and malt liquor in its undamaged original carton from the retailer's stock, if the wholesaler replaces the product with an equal quantity of identical product;

(18) In addition to withdrawals authorized pursuant to subdivision (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 malt liquor 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 and malt liquor, 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

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

~~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] The distiller, wholesaler, or winemaker may lend, give, rent, or sell and they may install or repair distilled spirits and wine nonrefrigeration keg flow accessories at the retail business establishment to facilitate the dispensing of distilled spirits and wine;

(1) All other dispensing accessories as described in this section that are installed by a distiller, wholesaler, or winemaker to a retailer shall be sold in the same manner as other equipment and supplies or may be loaned by a distiller, wholesaler, or winemaker to a retailer only if a deposit is given by the retailer in an amount that covers the cost of such dispensing accessories, and the deposit shall not be refunded to the retailer until such loaned dispensing accessories are returned to the distiller, wholesaler, or winemaker. An actual deposit payment, other than a charge to a retailer's account, shall be received if the dispensing accessories are loaned for more than ten days within a thirty day period; and

(2) A complete record of dispensing accessories and nonrefrigeration keg flow accessories given, rented, sold, installed, and loaned, and repairs and services made to a retailer, shall be retained for a period of not less than two years by the distiller, wholesaler, or winemaker.

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, or an educational institution if such contributions are unrelated to such organization's retail operations.

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. A brewer or manufacturer, its employees, officers or agents may have a financial interest in the retail business for sale of intoxicating liquors 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.

11. 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. A wine manufacturer who is a holder of a license to sell intoxicating liquor by the drink at retail for consumption on the premises shall be exempt from the provisions of section 311.280 for such intoxicating liquor that is produced on the premises in accordance with the provisions of this chapter.

12. 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."; and

Further amend said bill, Page , Section 311.367, Line 7, by inserting after the word "liquor" the phrase "due to the perishability and limited life span of beer and intoxicating malt liquor"; and

Further amend said bill by amending the title, enacting clause, and intersectional references

1 accordingly.