

FIRST REGULAR SESSION

HOUSE BILL NO. 783

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ALFERMAN.

1604H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 311.185, 311.420, and 311.462, RSMo, and to enact in lieu thereof four new sections relating to alcohol retailers.

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

Section A. Sections 311.185, 311.420, and 311.462, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 311.185, 311.186, 311.187, and
3 311.420, to read as follows:

311.185. 1. Notwithstanding any rule, law, or regulation to the contrary, any person
2 currently licensed in this state or any other state as a wine manufacturer may apply for and the
3 supervisor of alcohol and tobacco control may issue a wine direct shipper license, as provided
4 in this section, which allows a wine manufacturer to ship up to two cases of wine per month
5 directly to a resident of this state who is at least twenty-one years of age for such resident's
6 personal use and not for resale. Before sending any shipment to a resident of this state, the wine
7 manufacturer shall first obtain a wine direct shipper license as follows:

8 (1) File an application with the division of alcohol and tobacco control; [~~and~~]

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

12 **(3) Pay a license fee of one hundred dollars per year.**

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 personal
15 use and not for resale;

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.

16 (2) Not use any carrier for shipping of wine that is not licensed under ~~[this]~~ section
17 **311.186**;

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

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

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

25 (6) If the winery is located outside of this state, ~~[by January thirty-first]~~ **on or before the**
26 **fifteenth day of each calendar month**, make a report under oath to the supervisor of alcohol
27 and tobacco control setting out the total amount of wine shipped into the state the preceding
28 ~~[year]~~ **month**;

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

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

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

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

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

43 4. ~~[Notwithstanding any law, rule, or regulation to the contrary, any carrier may apply~~
44 ~~for and the supervisor of alcohol and tobacco control may issue an alcohol carrier license, as~~
45 ~~provided in this section, which allows the carrier to transport and deliver shipments of wine~~
46 ~~directly to a resident of this state who is at least twenty-one years of age or older. Before~~
47 ~~transporting any shipment of wine to a resident of this state, the carrier shall first obtain an~~
48 ~~alcohol carrier license by filing an application with the division of 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 person,~~
51 ~~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 the~~
55 ~~winery or retailer, quantity of wine shipped, recipient's name and address, and an electronic or~~
56 ~~paper form of signature from the recipient of the wine.~~

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

**311.186. 1. Notwithstanding any other provision of law, rule, or regulation to the
2 contrary, any carrier may apply for, and the supervisor of alcohol and tobacco control may
3 issue, an alcohol carrier license, as provided in this section, which allows the carrier to
4 transport and deliver shipments of intoxicating liquor directly to a resident of this state
5 who is at least twenty-one years of age. Before transporting any shipment of intoxicating
6 liquor to a resident of this state, the carrier shall first obtain an alcohol carrier license by
7 filing an application with the division of alcohol and tobacco control and paying a license
8 fee of five hundred dollars per year.**

9 **2. It shall be unlawful for any person, firm, partnership, or corporation to deliver**
10 **intoxicating liquor, as defined in section 311.020, from outside the state of Missouri, in any**
11 **quantity, directly to a resident of this state without first obtaining an alcohol carrier**
12 **license.**

13 **3. All alcohol carrier licensees shall:**

14 **(1) Ensure that all containers of intoxicating liquor delivered directly to a resident**
15 **of this state are conspicuously labeled with the words "CONTAINS ALCOHOL:**
16 **SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY" or are**
17 **conspicuously labeled with wording preapproved by the division of alcohol and tobacco**
18 **control;**

19 **(2) Ensure the delivery driver is at least twenty-one years of age;**

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

22 **(4) Require valid proof of identity and age;**

23 **(5) Obtain the signature of a person at least twenty-one years of age as a condition**
24 **of delivery;**

25 **(6) Keep records of intoxicating liquor shipped which include the license number**
26 **and name of the winery or retailer, quality of intoxicating liquor shipped, purchaser's**
27 **name, recipient's name and address, and an electronic or paper form of signature from the**
28 **recipient of the intoxicating liquor;**

29 **(7) Only deliver intoxicating liquor to residents of Missouri from persons licensed**
30 **by the division of alcohol and tobacco control as:**

31 **(a) Wine direct shippers, licensed under section 311.185; or**

32 **(b) Retailers, licensed under chapter 311; and**

33 **(8) Provide the division of alcohol and tobacco control a monthly report, on or**
34 **before the fifteenth day of each calendar month, of all intoxicating liquor shipments made**
35 **by each licensee to residents of the state of Missouri during the preceding month. The**
36 **alcohol carrier's monthly report shall detail the:**

37 **(a) Missouri license number and business name for each shipper of intoxicating**
38 **liquor;**

39 **(b) Invoice number for each intoxicating liquor shipment;**

40 **(c) Name and address of the resident who received the intoxicating liquor;**

41 **(d) Quantity of intoxicating liquor shipped on each invoice; and**

42 **(e) Date of delivery.**

43 **4. Upon request by the licensed alcohol carrier, the division of alcohol and tobacco**
44 **control shall provide an electronic copy of all licensees that may ship intoxicating liquor**
45 **to residents of Missouri.**

311.187. 1. Notwithstanding any provision of law, rule, or regulation to the
2 **contrary, any retailer licensed under this chapter may deliver intoxicating liquor directly**
3 **to a resident of the state of Missouri.**

4 **2. Missouri retailers who make deliveries directly to residents shall:**

5 **(1) Consummate the sale of intoxicating liquor on the licensed premises. The sale**
6 **may be made in person, by phone, or by other electronic means;**

7 **(2) Ensure that all containers of intoxicating liquor delivered directly to a resident**
8 **of the state of Missouri are conspicuously labeled with the words "CONTAINS**
9 **ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR**
10 **DELIVERY" or are conspicuously labeled with wording preapproved by the division of**
11 **alcohol and tobacco control;**

12 **(3) Ensure the delivery driver is at least twenty-one years of age;**

- 13 **(4) Not deliver to any person under twenty-one years of age, or to any intoxicated**
14 **person, or any person appearing to be in a state of intoxication;**
15 **(5) Require valid proof of identity and age;**
16 **(6) Obtain the signature of a person at least twenty-one years of age as a condition**
17 **of delivery; and**
18 **(7) Keep records of intoxicating liquor delivered, which include the name of the**
19 **purchaser, the quantity of intoxicating liquor delivered, a copy of the invoice or receipt,**
20 **the recipient's name and address, and an electronic or paper form of signature from the**
21 **receipt of the intoxicating liquor.**

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

32 3. Carriers licensed under this section or carriers exempt from holding a permit under
33 this section shall not deliver ~~[wine]~~ **intoxicating liquor from outside the state of Missouri, in**
34 **any quantity, directly** to a resident of this state without obtaining an alcohol carrier license
35 under section ~~[311.185]~~ **311.186.**

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

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

12 ~~3. No broker within this state may solicit consumers to engage in~~
13 ~~interstate reciprocal wine shipments under this section. No shipper located~~
14 ~~outside this state may advertise such interstate reciprocal wine shipments in this~~
15 ~~state.]~~

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