

FIRST REGULAR SESSION

# SENATE BILL NO. 404

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

Read 1st time February 8, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1715S.02I

## AN ACT

To repeal sections 311.185, 311.420, and 311.462, RSMo, and to enact in lieu thereof four new sections relating to transportation of alcohol products, with penalty provisions.

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Section A. Sections 311.185, 311.420, and 311.462, RSMo, are repealed  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

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

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

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

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

17 2. All wine direct shipper licensees shall:

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

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

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

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

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

30 (6) If the winery is located outside of this state, [by January thirty-first]  
31 **on or before the fifteenth day of each calendar month**, make a report  
32 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] **month**;

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

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

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

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

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

49 4. [Notwithstanding any law, rule, or regulation to the contrary, any  
50 carrier may apply for and the supervisor of alcohol and tobacco control may issue  
51 an alcohol carrier license, as provided in this section, which allows the carrier to  
52 transport and deliver shipments of wine directly to a resident of this state who  
53 is at least twenty-one years of age or older. Before transporting any shipment of

54 wine to a resident of this state, the carrier shall first obtain an alcohol carrier  
55 license by filing an application with the division of alcohol and tobacco control.

56 5. All alcohol carrier licensees shall:

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

59 (2) Require valid proof of identity and age;

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

61 (4) Keep records of wine shipped which include the license number and  
62 name of the winery or retailer, quantity of wine shipped, recipient's name and  
63 address, and an electronic or paper form of signature from the recipient of the  
64 wine.

65 6.] The division of alcohol and tobacco control may promulgate rules to  
66 effectuate the provisions of this section. Any rule or portion of a rule, as that  
67 term is defined in section 536.010, that is created under the authority delegated  
68 in this section shall become effective only if it complies with and is subject to all  
69 of the provisions of chapter 536 and, if applicable, section 536.028. This section  
70 and chapter 536 are nonseverable and if any of the powers vested with the  
71 general assembly pursuant to chapter 536 to review, to delay the effective date  
72 or to disapprove and annul a rule are subsequently held unconstitutional, then  
73 the grant of rulemaking authority and any rule proposed or adopted after August  
74 28, 2007, shall be invalid and void.

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

11 **2. It shall be unlawful for any person, firm, partnership, or  
12 corporation to deliver intoxicating liquor, as defined in section 311.020,  
13 from outside of Missouri, in any quantity, directly to a resident of this  
14 state, without first obtaining an alcohol carrier license, unless such  
15 entity is a licensed wine direct shipper conducting the shipment of**

16 wine as described in subsection 1 of section 311.185. Any violation of  
17 this subsection shall be a class B misdemeanor.

18 3. All alcohol carrier licensees shall:

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

24 (2) Ensure the delivery driver is at least twenty-one years of age,  
25 or to any intoxicated person, or any person appearing to be in a state  
26 of intoxication;

27 (3) Require valid proof of identity and age;

28 (4) Obtain the signature of a person at least twenty-one years of  
29 age as a condition of delivery;

30 (5) Keep records of intoxicating liquor shipped which include the  
31 license number and name of the winery or retailer, quantity of  
32 intoxicating liquor shipped, purchaser's name, recipient's name and  
33 address, and an electronic or paper form of signature from the  
34 recipient of the intoxicating liquor;

35 (6) Only deliver intoxicating liquor to Missouri residents from  
36 premises licensed by the division of alcohol and tobacco control,  
37 including:

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

39 (b) Retailers, licensed under chapter 311; and

40 (7) Provide the division of alcohol and tobacco control a monthly  
41 report, on or before the fifteenth day of each calendar month, of all  
42 intoxicating liquor shipments made by each licensee to Missouri  
43 residents during the preceding month. The alcohol carrier's monthly  
44 report shall detail the:

45 (a) Missouri license number and business name for each shipper  
46 of intoxicating liquor;

47 (b) Name and address of resident that received the intoxicating  
48 liquor;

49 (c) Weight of intoxicating liquor shipped on each invoice; and

50 (d) Date of delivery.

51 4. Upon request by the licensed alcohol carrier, the division of  
52 alcohol and tobacco control shall provide an electronic copy of all

53 **licensees that may ship intoxicating liquor to Missouri residents.**

311.187. 1. **Notwithstanding any law, rule, or regulation to the  
2 contrary, any retailer, licensed under to this chapter, may deliver  
3 intoxicating liquor from the Missouri licensed premises directly to  
4 residents of Missouri.**

5 **2. Missouri retailers that make deliveries directly to residents  
6 shall:**

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

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

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

16 **(4) Not deliver to any person under twenty-one years of age, or  
17 to any intoxicated person, or any person appearing to be in a state of  
18 intoxication;**

19 **(5) Require valid proof of identity and age;**

20 **(6) Obtain the signature of a person at least twenty-one years of  
21 age as a condition of delivery; and**

22 **(7) Keep records of intoxicating liquor delivered, which include  
23 the name of the purchaser, quantity of intoxicating liquor delivered, a  
24 copy of the invoice or receipt, recipient's name and address, and an  
25 electronic or paper form of signature from the recipient of the  
26 intoxicating liquor.**

311.420. 1. **No person, except carriers regulated by the motor carrier and  
2 railroad safety division of the department of economic development under  
3 chapters 387, 389 and 390, shall transport into, within, or through the state of  
4 Missouri any intoxicating liquors in quantities larger than five gallons unless  
5 such person holds a valid license or permit from the supervisor of alcohol and  
6 tobacco control of the state of Missouri to do so. For such license, there shall be  
7 paid to the director of revenue the sum of ten dollars per annum. Application for  
8 such license shall be made to the supervisor of alcohol and tobacco control of the  
9 state of Missouri and each applicant shall submit with his application a bond in  
10 the penal sum of one thousand dollars with sufficient surety to be approved by**

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

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

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

[311.462. 1. Notwithstanding any other provision of law,  
2 a holder of a retailer alcoholic beverage license in this state or a  
3 state which affords Missouri licensees an equal reciprocal shipping  
4 privilege may ship, for personal use and not for resale, not more  
5 than two cases of wine, each case containing not more than nine  
6 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  
8 a sale in this state.

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

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

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Bill

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