

SENATE BILL NO. 697

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

2694S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 311.185 and 311.420, RSMo, and to enact in lieu thereof four new sections relating to delivery of intoxicating liquor.

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

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2 repealed and four new sections enacted in lieu thereof, to be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

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

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

14 (2) Provide to the division of alcohol and tobacco
15 control a true copy of its current alcoholic beverage
16 license issued in this state or any other state, as well as

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

17 a copy of the winery license from the Alcohol and Tobacco
18 Tax and Trade Bureau.

19 2. All wine direct shipper licensees shall:

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

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

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

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

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

33 (6) If the winery is located outside of this state, by
34 January thirty-first, make a report under oath to the
35 supervisor of alcohol and tobacco control setting out the
36 total amount of wine shipped into the state the preceding
37 year;

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

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

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

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

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

58 4. [Notwithstanding any law, rule, or regulation to
59 the contrary, any carrier may apply for and the supervisor
60 of alcohol and tobacco control may issue an alcohol carrier
61 license, as provided in this section, which allows the
62 carrier to transport and deliver shipments of wine directly
63 to a resident of this state who is at least twenty-one years
64 of age or older. Before transporting any shipment of wine
65 to a resident of this state, the carrier shall first obtain
66 an alcohol carrier license by filing an application with the
67 division of alcohol and tobacco control.

68 5. All alcohol carrier licensees shall:

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

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

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

75 (4) Keep records of wine shipped which include the
76 license number and name of the winery or retailer, quantity
77 of wine shipped, recipient's name and address, and an

78 electronic or paper form of signature from the recipient of
79 the wine.

80 **6.1** The division of alcohol and tobacco control may
81 promulgate rules to effectuate the provisions of this
82 section. Any rule or portion of a rule, as that term is
83 defined in section 536.010, that is created under the
84 authority delegated in this section shall become effective
85 only if it complies with and is subject to all of the
86 provisions of chapter 536 and, if applicable, section
87 536.028. This section and chapter 536 are nonseverable and
88 if any of the powers vested with the general assembly
89 pursuant to chapter 536 to review, to delay the effective
90 date or to disapprove and annul a rule are subsequently held
91 unconstitutional, then the grant of rulemaking authority and
92 any rule proposed or adopted after August 28, 2007, shall be
93 invalid and void.

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

**13 2. It shall be unlawful for any person, firm,
14 partnership, or corporation to ship or deliver intoxicating
15 liquor, as defined in section 311.020, in any quantity,**

16 directly to a resident of this state, without obtaining an
17 alcohol carrier license.

18 3. All alcohol carrier licensees shall:

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

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

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

30 (4) Require valid proof of identity and age;

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

33 (6) Keep records of intoxicating liquor shipped which
34 include the license number and name of the winery or
35 retailer, quantity of intoxicating liquor shipped,
36 purchaser's name, recipient's name and address, and an
37 electronic or paper form of signature from the recipient of
38 the intoxicating liquor;

39 (7) Only deliver intoxicating liquor to Missouri
40 residents from persons licensed by the division of alcohol
41 and tobacco control as:

42 (a) Wine direct shippers, licensed pursuant to section
43 311.185; or

44 (b) Retailers, licensed pursuant to this chapter; and

45 (8) Provide the division of alcohol and tobacco
46 control a monthly report, on or before the fifteenth day of
47 each calendar month, of all intoxicating liquor shipments

48 made by each licensee to Missouri residents during the
49 preceding month. The alcohol carrier's monthly report shall
50 detail the:

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

53 (b) Invoice number for each intoxicating liquor
54 shipment;

55 (c) Name and address of the resident that received the
56 intoxicating liquor;

57 (d) Quantity of intoxicating liquor shipped on each
58 invoice; and

59 (e) Date of delivery.

311.187. 1. Notwithstanding any law, rule, or
2 regulation to the contrary, any retailer, licensed pursuant
3 to this chapter, may deliver intoxicating liquor directly to
4 residents of Missouri, or use a third-party delivery service
5 to deliver intoxicating liquor.

6 2. Missouri retailers or their delivery service that
7 make deliveries directly to residents shall:

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

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

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

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

22 (5) Require valid proof of identity and age;

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

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

 311.420. 1. No person, except carriers regulated by
2 the motor carrier and railroad safety division of the
3 department of economic development under chapters 387, 389
4 and 390, shall transport into, within, or through the state
5 of Missouri any intoxicating liquors in quantities larger
6 than five gallons unless such person holds a valid license
7 or permit from the supervisor of alcohol and tobacco control
8 of the state of Missouri to do so. For such license, there
9 shall be paid to the director of revenue the sum of ten
10 dollars per annum. Application for such license shall be
11 made to the supervisor of alcohol and tobacco control of the
12 state of Missouri and each applicant shall submit with his
13 application a bond in the penal sum of one thousand dollars
14 with sufficient surety to be approved by the supervisor of
15 alcohol and tobacco control, conditioned that he will not
16 violate any provisions of the liquor control laws of this
17 state or any regulation promulgated under such liquor
18 control laws, and any violation of such condition shall work
19 a forfeiture of such bond to the state of Missouri. The
20 license year shall end on June thirtieth, and the applicant

21 shall pay as many twelfths as there are months, with each
22 part of a month being counted as a month, remaining from the
23 date of the license to the next succeeding July first. The
24 supervisor of alcohol and tobacco control may issue single
25 transaction licenses, for which there shall be paid to the
26 director of revenue the sum of five dollars, and, if the
27 value of the liquor to be transported exceeds one hundred
28 dollars, the permit shall not be issued until the bond
29 provided for above in this section is given to the state.
30 No such transporter's license shall be required of any
31 person licensed by the supervisor of alcohol and tobacco
32 control whose licensed premises are located in the state of
33 Missouri, nor shall it be necessary to procure a license to
34 transport liquor purchased from a retail liquor dealer duly
35 licensed by the supervisor of alcohol and tobacco control of
36 the state of Missouri. No license or permit shall be
37 required to transport industrial alcohol.

38 2. The qualifications prescribed for the issuance of
39 other licenses by the provisions of the liquor control law
40 shall not apply to licenses issued under this section, but
41 no license shall be issued to any person who is not of good
42 moral character or who has been convicted since the
43 ratification of the twenty-first amendment to the
44 Constitution of the United States of the violation of any
45 law applicable to the manufacture or sale of intoxicating
46 liquor, nor to any person who has had a license from the
47 supervisor of alcohol and tobacco control revoked. If
48 applicant is a corporation, the managing officer thereof
49 must possess the qualifications prescribed in this section.

50 3. Carriers licensed under this section or carriers
51 exempt from holding a permit under this section shall not
52 deliver **[wine] intoxicating liquor from outside Missouri, in**

53 **any quantity, directly** to a resident of this state without
54 obtaining an alcohol carrier license under section [311.185]
55 **311.186.**

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