



Rules of
Department of Public Safety
Division 70—Division of Alcohol and Tobacco Control
Chapter 2—Rules and Regulations

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**Title 11—DEPARTMENT OF
PUBLIC SAFETY
Division 70—Division of Alcohol and
Tobacco Control
Chapter 2—Rules and Regulations**

11 CSR 70-2.010 Definitions

PURPOSE: This rule defines certain terms pertaining to and commonly used throughout Chapters 311 and 312, RSMo and the rules of the supervisor of liquor control.

(1) Domestic wine is wine containing not in excess of fourteen percent (14%) of alcohol by weight and manufactured exclusively from grapes, berries and other fruits and vegetables grown in Missouri.

(2) Intoxicating liquor includes alcohol for beverage purposes, alcohol, spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes containing in excess of one-half of one percent (.5%) of alcohol by volume except for nonintoxicating beer as defined in section 312.010, RSMo.

(3) Malt liquor is any beverage manufactured from pure hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water, containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight.

(4) Nonintoxicating beer is any beer manufactured from pure hops and pure extracts of hops and pure barley malt or other wholesome grains or cereals, and wholesome yeast and pure water and free from all harmful substances, preservations and adulterants and having an alcoholic content of more than one-half (1/2) of one percent (1%) by volume and not exceeding three and two-tenths percent (3.2%) by weight.

(5) Ordinary Commercial Credit.

(A) Malt Beverages. Ordinary commercial credit as used in the malt beverage and non-intoxicating beer industry shall be credit on such terms as shall require payment to be made by the retail licensee by the last day of the month for malt beverages or nonintoxicating beer which is delivered to the retail licensee on or after the first day of the month and up to and including the fifteenth day of the month and by the fifteenth day of the month next succeeding for malt beverages or nonintoxicating beer which is delivered to the retail licensee on or after the sixteenth day of the month and up to and including the last day of the month. No brewer or wholesaler

shall sell or deliver to any retail licensee any malt beverage or nonintoxicating beer while the retail licensee owes the brewer or wholesaler for any malt beverage or nonintoxicating beer beyond the period of time as indicated in this subsection.

(B) Intoxicating liquor other than malt beverage. Ordinary commercial credit as used in the intoxicating liquor industry, other than the malt beverage industry, shall be credit on such terms as shall require payment to be made by the retail licensee within thirty (30) days after the delivery of any intoxicating liquor, other than malt beverage, to the retail licensee. No distiller, wholesaler or wine maker shall sell or deliver to any retail licensee any intoxicating liquor, other than malt beverage, while the licensee owes the distiller, wholesaler, or wine maker for any intoxicating liquor, other than malt beverage, beyond the period of time as indicated in this subsection.

(6) Original package refers to any package containing three (3) or more standard bottles or cans of malt liquor or nonintoxicating beer, to fifty (50) milliliters (1.7 ounces) or more of spirituous liquors and one hundred (100) milliliters (3.4 ounces) or more of vinous liquors in the manufacturer's original container. A standard bottle is any bottle or can containing twelve (12) ounces or less of malt liquor or nonintoxicating beer.

(7) The words permit and license, whenever used as nouns in Chapters 311 and 312, RSMo and in these regulations, shall have the same meaning.

(8) The words permittee and licensee, whenever used as nouns in Chapters 311 and 312, RSMo and in these regulations, shall have the same meaning.

(9) Person is any individual, association, joint stock company, syndicate, copartnership, corporation, receiver, conservator or other officer appointed by any state or federal court. Clubs are also included within the meaning of the term.

(10) Premises is the place where intoxicating liquor or nonintoxicating beer is sold and it may be one (1) room, a building comprising several rooms, or a building with adjacent or surrounding land such as a lot or garden.

(11) Retailer is a person holding a license to sell or to offer to sell intoxicating liquor or nonintoxicating beer to consumer only.

(12) Spirituous liquor includes brandy, rum, whiskey, gin and all other preparations or mixtures for beverage purposes of a like character and excludes all vinous, fermented or malt liquors.

(13) Wholesaler is a person holding a license to sell intoxicating liquor or nonintoxicating beer to wholesalers or to retailers.

(14) Wholesale-solicitor is a person holding a license to sell intoxicating liquor or nonintoxicating beer to wholesalers or to retailers.

(15) Wine is a vinous liquor produced by fermentation of juices of grapes, berries or other fruits or a preparation of certain vegetables by fermentation, and containing alcohol not in excess of twenty-two percent (22%) by volume.

AUTHORITY: section 311.660, RSMo 1994. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Nov. 21, 1974, effective Dec. 1, 1974. Amended: Filed Sept. 30, 1976, effective Feb. 11, 1977. Amended: Filed Jan. 7, 1985, effective April 11, 1985. Amended: Filed Dec. 2, 1993, effective June 6, 1994. Amended: Filed Jan. 22, 1996, effective July 30, 1996.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

Op. Atty. Gen. No. 132, Russell (7-18-79). Ethanol used solely as a fuel for motor vehicle purposes is not a section 311.020, RSMo "intoxicating liquor." Also, manufacturers of ethanol for fuel purposes need not be licensed under Chapter 311, RSMo if the ethanol is denatured by some means.

Op. Atty. Gen. No. 37, Mueller (1-17-79). Wines used as part of religious services are not "for beverage purposes" since they are not being consumed for the mere pleasure of drinking or for physical or mental exaltation. Therefore, these "sacramental wines" are not intoxicating liquors as defined in Chapter 311, RSMo.

11 CSR 70-2.020 Application for License

PURPOSE: This rule prescribes forms and applications and establishes procedure for the issuance of all intoxicating liquor and nonintoxicating beer licenses.

(1) Applications for licenses must be addressed to the Supervisor of Alcohol and Tobacco Control, Jefferson City, MO 65101. A bank draft, United States or express money



order, certified check, or cashier's check made payable to the director of revenue of Missouri for the correct amount of the license fee shall accompany the application. Remittance for renewal of licenses filed on or before the first day of May of each year may be made by personal or business check. If such check is returned for insufficient funds, the division will notify the licensee, by regular mail to the licensee's address listed on the renewal application, of the return, and the licensee shall replace such check within fourteen (14) days from the date the division mails said notice, by remitting payment by certified check, cashier's check, or other form of guaranteed funds. If the licensee has not replaced such check within said fourteen (14) days, then beginning with the fifteenth day, if such licensee's renewed license has been issued, such renewed license shall be suspended until the day following the day the licensee makes restitution for the insufficient funds check, or if such licensee's renewed license has not been issued, the renewed license shall not be issued until on or after the day following the day the licensee makes restitution for the insufficient funds check.

(2) Application must be made on the forms prescribed and provided by the supervisor.

(3) Every applicant for a license must present his/her application to the agent in charge of the territory where the applicant wishes to do business.

(4) Licenses will be granted in the order in which the applications are received at the office of the supervisor in Jefferson City.

(5) No agent has any right or authority to authorize any applicant to exercise the privileges of the license applied for pending its issuance.

(6) Every applicant for a license to sell intoxicating liquor or nonintoxicating beer shall set out in his/her application a description of each and every federal tax stamp, designating the applicant or his/her premises as the person or place for dealing in intoxicating liquor or malt liquor in his/her possession or on the premises for which s/he seeks a license.

(7) If application is made by a partnership, the application shall set out the names and residences of all the partners, whether they be active or silent partners. All partners shall qualify under the laws of Missouri for the license. All partners shall sign the application.

(8) No license shall be granted to an applicant unless s/he makes full, true and complete answers to all questions in the application. If any applicant shall make any false answer to any question in the application or make any false statement of a material matter in his/her application, it shall be cause for suspension or revocation of any license issued pursuant to the application.

(9) Violation of any oath taken by a licensee in connection with his/her application for a license shall be deemed cause for suspension or revocation of the license where an oath is required, by any statute of Missouri or any regulation of the supervisor of liquor control, to be taken.

(10) If the Supervisor of Alcohol and Tobacco Control has reason to believe that an applicant has a criminal record and is not a person of good moral character, the supervisor may require that the applicant submit to being fingerprinted and fingerprints forwarded to the Department of Justice to ascertain if the applicant has been convicted of any crime.

(11) The surety on the bond of any licensee at any time may notify the Supervisor of Alcohol and Tobacco Control and the licensee that s/he desires after a date named, which shall be at least thirty (30) days after the receipt of notification by the licensee and the supervisor, to be relieved of liability on the bond. Upon receipt, the privileges of the principal under the license as is supported by the bond shall be terminated and cancelled on the date specified, unless supported by other sufficient bond(s), and the surety shall be relieved of liability on the bond for any default of the principal accruing on and after the date named.

(12) Every applicant for a license to sell intoxicating liquor or nonintoxicating beer at retail or for a license to permit consumption of liquor must present the following with his/her application:

(A) There must be attached securely to the application in the space designated, a recent photograph or clear snapshot of the individual(s) signing the application;

(B) If application is being made for an original package license an affidavit by the individual owner, all of the partners, if a partnership, or the managing officer of a corporation, if a corporation, must be submitted, stating the type of business applicant is engaged in and in connection with which the license is to be used and stating that the applicant has and at all times keeps in his/her store a stock of goods having a value according to

invoices of at least one thousand dollars (\$1,000), exclusive of fixtures and intoxicating liquors. A stock inventory shall accompany the application;

(C) Every applicant for a three and two-tenths percent (3.2%) beer license shall take and subscribe the oath required by section 312.070, RSMo and it shall be attached to and accompany the application;

(D) A recent photograph approximately the size of an ordinary postcard of the exterior of the premises sought to be licensed shall be attached to the application;

(E) Every applicant shall submit a copy of his/her tax receipt, for the year immediately preceding the date of the application, of the county, town, city or village where s/he resides in Missouri, or, if the applicant is a corporation, a copy of the tax receipt for the year immediately preceding the date of the application of the managing officer of the corporation of the county, town, city or village in Missouri where the managing officer resides or, in lieu of the tax receipt, an affidavit of the county or city assessor where the applicant resides, or, if applicant is a corporation where the managing officer of the corporation resides, stating that applicant or the managing officer of the corporation, if a corporation, owns property for which s/he is legally subject and liable to taxation in the county, town, city or village where applicant or, if a corporation, the managing officer of the applicant, resides in Missouri;

(F) The Supervisor of Alcohol and Tobacco Control shall accept either personal or corporate bonds.

1. If the bond is a personal bond, there must be attached to it an affidavit and certificate signed by either an abstract company or a title insurance company in the following form:

Affidavit and Certificate

I, _____ being duly sworn upon my oath, state and certify that I have examined the records pertaining to the property described as (give legal description as it appears on affidavit of sureties on bond) _____ that the present recorded owner (owners) is (are) _____ that the mortgage encumbrances against said property are _____ (give name of mortgagor and mortgagee, and amount of mortgage and where recorded) _____ that the assessed value for taxation of said property is that all taxes due and owing on said property are paid; that there are no unsatisfied judgments recorded against the above named owner (owners) of said property and



that there are no pending bankruptcy proceedings in any of the divisions of the District Court of the United States for any district in Missouri, against or by any of the owners of said property.

 Abstract Company or Title
 Insurance Company
 By: _____
 Subscribed and sworn to before me this ____
 day of _____ 20____

 Notary Public
 My commission expires: _____;

2. If the bond is a personal bond, there also must be attached to it an affidavit by the surety (or sureties) in the following form:

I, _____ being duly sworn upon my oath, state that the following are all of the bonds, notes and other instruments of potential liability upon which I am or may become liable, (List in detail.) _____

 (Surety or sureties, name)
 Subscribed and sworn to before me this ____
 day of _____ 20____

 Notary Public
 My commission expires: _____;

(G) Each applicant for a retail license to sell intoxicating liquor and nonintoxicating beer shall submit, with his/her application for a license, a copy of his/her retail sales license issued by the director of revenue and before any license is issued or renewed under the provisions of Chapter 311 or 312, RSMo, each applicant shall submit with his/her application a certificate of no sales or use tax due from the director of revenue; and

(H) If application is being made by a corporation, applicant shall present a copy of its franchise tax receipt, provided the corporation has been in existence for a period of sufficient length to have incurred liability for the tax.

(13) All applications for wholesale licenses must be made on blanks furnished by the Division of Alcohol and Tobacco Control and all information and data set out as required on the blanks must be furnished at the time the application is submitted.

(14) No license will be issued to the spouse, child(ren), step-child(ren), parent(s), step-parent(s), son-in-law or daughter-in-law, employee or other person having any interest in the business of a licensee whose license

has been revoked, for the privilege of doing business at the same location or in close proximity to the location of the establishment whose license was revoked.

(15) The Supervisor of Alcohol and Tobacco Control, at his or her discretion and for good cause, may issue a temporary license for up to ten (10) days. A completed application with all required current documents and payment of license fees and any late charges must be in receipt of the Division of Alcohol and Tobacco Control before a temporary license will be considered by the Supervisor of Alcohol and Tobacco Control. An original signature of the Supervisor of Alcohol and Tobacco Control or his or her designee is required for this temporary license to be effective.

AUTHORITY: section 311.660, RSMo 2000. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed July 11, 1984, effective Oct. 11, 1984. Amended: Filed Dec. 2, 1993, effective June 6, 1994. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998. Amended: Filed Sept. 22, 1998, effective March 30, 1999. Amended: Filed June 5, 2008, effective Nov. 30, 2008.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

Brown-Forman Distillers Corp. v. Stewart, 520 SW2d 1 (Mo. banc 1975). Separate licenses are required for every phase of the liquor traffic and manufacturers, wholesalers and retailers are statutorily categorized as distinct separate phases thereof. The statutes indicate a legislative intent to preclude a licensee in one phase of the liquor traffic from controlling traffic in liquor in its entirety.

Pinzio v. Supervisor of Liquor Control, 334 SW2d 20 (1960). A review of the statutes makes it clear that the legislature has vested sole discretion in the supervisor (of liquor control) to issue or refuse to issue each license, whether one of original issue or a renewal and that a hearing is not an essential prerequisite to the lawful exercise of that sole discretion. Failure to hold a hearing prior to the refusal to issue a denial of due process is in violation of the pertinent provisions of the state and federal constitutions.

State ex rel. Floyd v. Philpet et al., 266 SW2d 704 (Mo. banc 1954). The exclusive authority to determine whether statutory qualifications for an applicant for a state license to sell intoxicating liquor at retail had been met and the authority to issue such

licenses is vested in the state supervisor of liquor control.

11 CSR 70-2.030 Change of Facts, Posting, Transfer and Lost Licenses—Executors—Administrators

PURPOSE: This rule establishes procedure for reporting changes in status of license, transfer, death of licensee or managing officer, loss of, etc.

(1) If during the period for which a license is granted there be any change of facts or information differing from that set forth in the original or in any renewal application on file with the supervisor of liquor control, written notice shall be given him/her within ten (10) days after the change.

(2) Before commencing or doing any business for the time for which a Missouri state license has been granted, the license shall be posted and at all times during the term of the license, kept displayed in a conspicuous place on the premises where the business is carried on, so that all persons visiting the premises may readily see the license.

(A) No licensee shall post the license or allow the license to be posted upon premises other than the premises licensed or upon premises where traffic in intoxicating liquor or nonintoxicating beer is being carried on by any person other than the licensee or knowingly deface, destroy or alter any the license in any respect.

(B) Every licensee, licensed by Missouri to sell intoxicating liquor or nonintoxicating beer, also shall keep displayed prominently at all times while his/her Missouri license is in effect, on his/her licensed premises, all federal tax stamps issued to him/her or to any other person designating him/her or the licensed premises as a person or place authorized by the federal government to deal in intoxicating liquors, and s/he shall submit all federal tax stamps to the supervisor of liquor control or any agent of the Division of Liquor Control, for examination, at any time s/he is requested by the supervisor or the agent to do so and permit the supervisor or agent to take a copy of the tax stamps. Every licensee also shall keep displayed prominently at all times on his/her licensed premises any city license designating him/her or his/her premises as a place licensed by the city to sell intoxicating liquors or nonintoxicating beer.

(3) A license, in the discretion of the supervisor of liquor control, may be transferred to any other premises or to any other part of the



building containing the licensed premises, provided the premises sought to be licensed meets the requirements of the law. The supervisor first must approve the transfer and the application for permission to transfer shall be in writing and set forth—

(A) Name and address of licensee;

(B) Address and legal description of premises to which removal is sought, together with name and address of landlord;

(C) An affidavit by the licensee that s/he has not violated any provisions of the Liquor Control Act or Nonintoxicating Beer Law or any rule of the supervisor; and

(D) In addition, the licensee must file with the supervisor a consent of surety(ies), which consent if the bond was signed by private individuals, must be signed by those individuals in the same manner in which the signatures appear on the bond itself and their signatures there to must be witnessed. If the bond was signed by a surety company, the consent must be signed by a duly authorized officer or attorney-in-fact of the company whose authority or power of attorney is on file in the Division of Liquor Control. The consent shall be so drawn that the surety(ies) remain liable on the bond of the licensee at the new location. Forms of the consent required by the regulation will be supplied by the supervisor upon request.

(4) Whenever a license shall be lost or destroyed without fault on the part of the licensee or his/her agents or employees, a duplicate license in lieu of the lost or destroyed license will be issued by the supervisor of liquor control without cost to the licensee. Application for a duplicate license shall be by affidavit of the licensee which shall be set forth—

(A) Date upon which license was lost or destroyed;

(B) Circumstances under which license was lost or destroyed; and

(C) Request that duplicate license be issued.

(5) Unless licensed by the supervisor of liquor control as such, no receiver, assignee, trustee, guardian, administrator or executor may sell any intoxicating liquor or nonintoxicating beer belonging to the estate over which s/he has control, except to a licensed wholesaler or retailer and s/he must first procure the consent of the supervisor of liquor control to sell the liquor or beer. Consent will not be given unless the supervisor has been provided with the following documents and information:

(A) A copy of the order of the court having jurisdiction over the estate authorizing the

sale; and

(B) A joint affidavit signed by the receiver, assignee, trustee, guardian, administrator or executor and the purchaser, setting out an inventory of the stock, the price for which it is to be sold, the date of the contract of sale and the license number of the purchaser.

(6) In the event that a licensee's license has been lost, stolen, destroyed or a transfer to another place of business is desired, an agent or inspector, with the approval of the supervisor, may issue a special certificate which will allow the licensee to continue his/her business. In no event shall the special certificate continue in effect for more than ten (10) days from the date of issuance.

(7) Corporations licensed under the provisions of sections 311.060 and 312.040, RSMo must have a managing officer. In order to qualify, the managing officer must be a person in the corporation's employ, either as officer or an employee who is vested with the general control and superintendence of a whole, or a particular part of, the corporation's business at a particular place.

(A) In the event the office of the managing officer of a corporation becomes vacant, it will be necessary for the corporation to secure a managing officer within fifteen (15) days after the vacancy occurs, with a managing officer being qualified under the provisions of sections 311.060 and 312.040, RSMo.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973.

**Original authority: 311.660, RSMo 1939, amended 1989.*



APPLICATION TO CHANGE DESCRIPTION OF LICENSED PREMISES

STATE OF MISSOURI
COUNTY OF _____ } ss.

I, _____, being the holder of _____ (State kind of license) License Number _____, issued by the Supervisor of Liquor Control of the State of Missouri on the _____ day of _____, 19____, do hereby make application to change the description of my licensed premises from the present description which is as follows: _____

to a new description as follows: _____

Said newly described premises are _____ feet from the nearest school, church, or other building regularly used as a place of religious worship.

Name and address of Landlord and amount of rent _____ (attach copy of lease or rental agreement)

I further certify that since the date the above permit was granted, I have not knowingly violated any of the provisions of the Liquor Control Act or the nonintoxicating beer laws of the State of Missouri or any rule or regulation of the Supervisor of Liquor Control of the State of Missouri, and have not been convicted of any crime since said date.

I agree that my bond now in effect shall cover and apply to the newly described premises if this application is granted.

Licensee
Subscribed and sworn to before me this _____ day of _____, 19____

Notary Public
_____ County, Missouri

My Commission expires on the _____ day of _____, 19____

The undersigned surety on the bond of the above-named licensee hereby consents to the change in the description of the premises as above set forth and agrees that said surety's liability on said licensee's bond shall remain in full force and effect at said newly described premises.

Surety

By _____
Attorney in Fact

Witness

Agent, Division of Liquor Control

District Supervisor, Division of Liquor Control.



Date: _____

STATE OF MISSOURI)
)
COUNTY OF) ss

AFFIDAVIT OF LOST PERMIT

d/b/a _____

at _____

being first duly sworn upon _____ oath state(s) that on the _____ day of _____, 19____, there was issued to _____ by the Supervisor of Liquor Control of the State of Missouri, State License Number(s) _____ to sell _____

and that said original license has been lost or destroyed. It is therefore requested that a duplicate license be issued in lieu thereof.

Signature

Signature

Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public

My commission expires:



11 CSR 70-2.040 Manufacturers, Wholesalers and Distributors

PURPOSE: This rule defines credit and advertising items allowed to be provided to retailers by manufacturers, wholesalers and distributors.

(1) Except as provided in section 311.070, RSMo, no retail licensee, directly or indirectly, shall accept any loans, equipment, money, credit or property of any kind, except ordinary commercial credit. Except as provided in section 311.070, RSMo, no person licensed to sell intoxicating liquor, or nonintoxicating beer at retail, shall permit any distiller, wholesaler, wine maker, brewer or his/her or their employees, officers or agents, under any circumstances, directly or indirectly, to have any financial interest in his/her retail business for the sale of intoxicating liquor or nonintoxicating beer and s/he shall not accept, directly or indirectly, from a distiller, wholesaler, wine maker, brewer or its employees, officers or agents any loan, gift, equipment, money, credit or property of any kind except ordinary commercial credit for intoxicating liquor and nonintoxicating beer sold to the retailer, except that to properly preserve and serve draught beer only and to facilitate the delivery to the retailer s/he may accept, and brewers and wholesalers may lend, give, rent or sell and they may install or repair any of the following items or render to retail licensees any of the following services: beer coils and coil cleaning, sleeves and wrappings, box couplings and draft arms, beer faucets and tap markers, beer and air hose, taps, vents and washers, gauges and regulators, beer and air distributors, beer line insulation, coil flush hose, couplings and bucket pumps; portable coil boxes, air pumps, blankets or other coverings for temporary wrappings of barrels, coil box overflow pipes, tilting platforms, bumper boards, skids, cellar ladders and ramps, angle irons, ice box grates, floor runways; and damage caused by any beer delivery excluding normal wear and tear and a complete record of equipment furnished and installed and repairs and service made or rendered must be kept by the brewer or wholesalers furnishing, making or rendering same for a period of not less than one (1) year, and except, that to properly preserve and serve draught wine, wine tapping accessories, such as standards, faucets, rods, vents, taps, tap standards, hoses, washers, coupling, gas gauges, vent tongues, shanks and check valves may be sold to a retailer and installed in the retailer's establishment if the tapping accessories are sold at a price not less than the cost to the distiller, wine maker,

brewer or wholesaler who initially purchased them and if the price is collected within thirty (30) days of the date of sale. Coil cleaning service may be furnished, given or sold to a retailer of wine or malt beverages.

(A) A sale by a licensed wholesaler to a licensed retailer of intoxicating liquor or nonintoxicating beer at a price which is less than the cost of the intoxicating liquor to the licensed wholesaler making the sale is presumed (subject to rebuttal as set out in this rule) to constitute a gift of money or property to the licensed retailer in violation of this regulation and sections 311.060 and 311.070, RSMo.

(B) The word cost as used in this regulation shall mean the actual invoice charge for the merchandise in question by the supplier of the merchandise to the wholesaler, plus the cost of transportation of the merchandise to the wholesaler and all federal and Missouri excise taxes and custom duties allocable to the merchandise.

(C) The presumption may be rebutted by reasonable proof that the fair wholesale market value of the intoxicating liquor or nonintoxicating beer in question is less than the cost of intoxicating liquor or nonintoxicating beer to the wholesaler selling the same.

(2) No distiller, wholesaler, wine maker, brewer or his/her or their employees, officers or agents, directly or indirectly, shall pay any fee rental or other consideration to any retail licensee for the use of any part of the licensed retail premises for advertising any brand name of distilled spirits, wine, malt liquor or nonintoxicating beer, or for the purpose of advertising the name, trademark or trade name of any marker of the trademark, provided, however, that nothing in this rule shall be construed as abrogating or altering in any manner or preventing the renewal of any existing contract or rental, whether oral or written, entered into before, for any part of any licensed retail premises.

(3) Except as provided in section 311.070, RSMo, no distiller, solicitor, wholesaler, wine maker, brewer or their employees, officers or agents, directly or indirectly, shall give or offer to give any financial assistance, gratuity or make or offer to make any gift of their products to any retail licensee.

AUTHORITY: section 311.660, RSMo 1994. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Feb. 24, 1987, effective May 11, 1987. Amended: Filed May 14, 1987, effective Aug. 13, 1987. Amended: Filed Nov. 21, 1996, effective May*

30, 1997. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998.

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.050 Wholesalers' Conduct of Business

PURPOSE: This rule establishes guidelines for wholesalers regarding purchases, deliveries, sales and storage of products.

(1) No wholesaler shall buy, obtain or accept any intoxicating liquors, wine or nonintoxicating beer from any person not holding a Missouri permit as a manufacturer or solicitor, provided that the wholesaler owning warehouse receipts may obtain the written permission from the supervisor of liquor control to receive intoxicating liquor from federal customs bonded warehouses or federal internal revenue bonded warehouses, as the case may be.

(2) No wholesale licensee shall deliver or cause any intoxicating liquors or nonintoxicating beer to be delivered to any licensee while the licensee is under suspension by the supervisor of liquor control.

(3) All wholesale licensees must keep and maintain a place for storage of merchandise, which must be designated in the license and must be separate and apart from any storage place used by others and with a separate entrance and street address.

(4) No wholesaler licensee shall deliver or cause intoxicating liquors, wine or nonintoxicating beer to be delivered to any premises unless there shall be displayed prominently in the premises a license issued by the supervisor of liquor control to the person purchasing the liquor, wine or beer, designating the purchaser as a person, licensed to sell on the premises the kind of liquor or beer s/he is about to deliver.

(5) Wholesalers licensed to sell intoxicating liquor or nonintoxicating beer shall make and keep duplicate invoices for all sales or deliveries of intoxicating liquor and nonintoxicating beer and the Missouri license number of every person to whom intoxicating liquor and nonintoxicating beer is sold or delivered by the licensees shall be written or stamped upon the duplicate invoices.

(6) Shipments by wholesalers or solicitors shall be made only to licensed dealers of this or other states. A bill of lading shall be



secured from the carrier and kept on file for a period of two (2) years, so that shipments can be traced by the division's auditors or inspectors.

(7) No manufacturer who has acquired knowledge or been given notice that a wholesaler has been suspended shall make sales or deliver merchandise to the wholesaler during the period of time that the licensee is under suspension.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed April 23, 1981, effective Aug. 13, 1981.

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.060 Manufacturers

PURPOSE: This rule establishes procedures for labeling, bottling and delivery of products.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Regulations announced by the Federal Alcohol Administration relating to labeling of distilled spirits, wine and malt beverages, packaged for shipment in interstate commerce, are made a part of this regulation as though fully set forth and are promulgated with respect to Missouri; these regulations shall apply to distilled spirits, wine and malt beverages packaged purely for interstate shipment insofar as the regulations are not contrary to or inconsistent with the laws of Missouri. In addition to the regulations, the label of every container of spirituous liquor, wine, malt liquor or nonintoxicating beer, unless already required by the regulations, shall set forth the name and address of the manufacturer, brewer, distiller, rectifier or producer of the spirituous liquor, wine, malt liquor or nonintoxicating beer as the case may be; provided that if the name of the brewer or manufacturer of malt liquor which appears on the label is not the owner of the facility where the malt liquor was brewed or manufactured, then the name, owner and address of the facility shall also be set forth on the label.

(2) Every manufacturer or brewer manufacturing or brewing any nonintoxicating beer in this state and every manufacturer, brewer or wholesaler outside of the state, shipping any intoxicating beer into this state, shall cause to be printed upon the large label around and upon the body of each bottle of nonintoxicating beer, one of the following inscriptions: "Alcoholic content not in excess of three and two-tenths percent (3.2%) by weight," or "Alcoholic content not in excess of four percent (4%) by volume," or in lieu of those inscriptions, shall cause the inscription to be printed on the crown of the bottle and in addition to those inscriptions on a separate label from the manufacturer's label previously described, which label shall be placed around the neck or body of the bottle in a secure manner so that it will adhere to the bottle after being iced so that it shall be on the bottle when the beer is served to the consumer. There shall be printed, stamped or embossed upon every can containing nonintoxicating beer, the statement, "Three and two-tenths percent (3.2%) by weight" or "Alcoholic content not in excess of three and two-tenths percent (3.2%) by weight."

(3) All licensees engaged in bottling intoxicating liquor and alcoholic beverages, before filling any bottle, shall cause the same to be sterilized by one (1) of the following methods:

(A) All new bottles, unless sterile, shall be sterilized or cleaned by thoroughly rinsing with clean sterile water or by blowing or vacuuming with proper machines for sterilization or cleansing.

(B) All used bottles shall be sterilized by soaking in a hot caustic solution which shall contain not less than three percent (3%) caustic or alkali expressed in terms of sodium hydrate. The period of time in the solution shall be governed by the temperature and strength of the solution. Then the bottles must be rinsed thoroughly in clean sterile water until free from alkali or sodium hydrate.

(4) All manufacturers and wholesalers at all times shall keep their premises and equipment in a clean and sanitary condition.

(5) No malt liquor or nonintoxicating beer in bottles, cans or jugs shall be brought in or transported within this state for the purpose of sale to any licensee or be sold to any licensee in other than cases the sizes of which have been approved by the Bureau of Alcohol, Tobacco and Firearms.

(6) Malt liquor and nonintoxicating beer may be brought in or transported into this state for the purpose of sale to any licensee or be sold to any licensee also in barrels or kegs the sizes of which have been approved by the Bureau of Alcohol, Tobacco and Firearms.

(7) For the purpose of the regulation the following definitions apply:

(A) A "facility which brews or manufactures malt liquor" is defined as a brewery or manufacturing plant premises licensed by either, or both, the state within which it is located and/or the United States Federal Alcohol Administration; and

(B) An "owner" of a facility which brews or manufactures malt liquor is defined as a person, corporation, limited liability company, partnership or other legal business entity, who holds the entire facility in fee simple, or has a leasehold interest for a term of years in that entire facility, and is the person or business entity licensed for that entire facility by either or both, the state within which the facility is located and/or the United States Federal Alcohol Administration.

AUTHORITY: section 311.660, RSMo 1994. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Emergency amendment filed Nov. 21, 1996, effective Dec. 31, 1996, expired June 28, 1997. Amended: Filed Nov. 21, 1996, effective May 30, 1997. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.070 Tax on Spirituous Liquor and Wine

PURPOSE: This rule establishes tax amounts on various container sizes of wine and spirituous liquor, defines contraband and prohibits possession of untaxed liquor or wine.

(1) No wine or spirituous liquor shall be brought in or transported within this state for the purpose of sale to any licensee or be sold to any licensee in other than containers the sizes of which have been approved by the Bureau of Alcohol, Tobacco and Firearms.

(2) The tax on spirituous liquor shall be two dollars (\$2) per gallon and the tax on wine shall be thirty-six cents (\$.36) per gallon.

(3) Any spirituous liquor or wine shipped into, sold or offered for sale in this state without payment of the proper amount of taxes due shall be deemed to be contraband



and by the supervisor or his/her agents shall be seized and disposed of as contraband.

(4) No person other than a licensed distiller, rectifier or wine manufacturer shall possess in this state any spirituous liquor or wines without the proper amount of taxes having been paid, except as provided in section 311.580, RSMo.

AUTHORITY: section 311.660, RSMo 1994. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Sept. 30, 1976, effective Feb. 11, 1977. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.080 Malt Liquor and Nonintoxicating Beer Tax

PURPOSE: This rule establishes tax amounts on various container sizes of malt beverages and nonintoxicating beer, defines contraband and prohibits possession of untaxed cereal malt beverages.

(1) The tax on malt liquor and nonintoxicating beer shall be one dollar eighty-six cents (\$1.86) per barrel or six cents (\$.06) per gallon.

(2) No sale or delivery of malt liquor or nonintoxicating beer shall be made in this state without the proper amount of Missouri tax being paid.

(3) Any malt liquor or nonintoxicating beer shipped into, sold or offered for sale in this state without paying the proper amount of tax, shall be deemed to be contraband and shall be, seized and disposed of as contraband by the supervisor or his/her agents.

AUTHORITY: section 311.660, RSMo 1994. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.090 Reporting Distillers, Rectifiers, Wine Manufacturers and Wholesalers

PURPOSE: This rule establishes format for reports of shipment and payment of tax on liquor and wine.

(1) Every distiller, rectifier and wine manufacturer licensed to sell spirituous liquor and wine in this state shall file with the supervisor of liquor control a report listing all Missouri wholesale licensees with whom it transacts business and attach to the report a copy of any contract or agreement between the distiller, rectifier or wine manufacturer and wholesale licensee. Any change in the listing shall be reported in writing within ten (10) days of the effective date of the change. A copy of any change in an existing contract or agreement and a copy of any new contract or agreement shall be submitted at the time of execution thereof. If there is no contract or agreement with respect to any wholesaler, the distiller, rectifier or wine manufacturer shall so indicate in its report. These contracts or agreements are for the information of the supervisor only and are not matters of public record.

(2) Every distiller, rectifier, wine manufacturer and wholesaler authorized to ship spirituous liquor and wine in this state whether for sale in this state or to be shipped outside the state, on or before the fifteenth day of each month, shall make a report under oath to the supervisor of liquor control setting out all sales of spirituous liquor and wine in this state.

(A) The reports, when made by a licensee who has shipped spirituous liquor and wine into this state, shall show the amount of spirituous liquor and wine shipped or sold to each wholesaler in this state, designating separately the amount of spirituous liquor and the amount of wine. In addition, every distiller, manufacturer, distributor and wholesaler, authorized to sell and ship spirituous and vinous liquor into this state, whether for sale in this state or to be shipped outside this state, at the time of making monthly reports, shall send to the supervisor of liquor control of Missouri true copies of invoices of the sales of liquor in Missouri. Each invoice shall show, as a separate charge, the amount of the tax due on the spirituous liquor and wine contained in each invoice.

(B) Reports made by distillers, rectifiers and wine manufacturers in this state shall show the amount of spirituous liquor and wine distilled or manufactured, amount bottled, in the amount of spirituous liquor or wine sold in this state, designating separately the amount of spirituous liquor and wine; the amount of spirituous liquor or wine sold outside this state, designating separately the amount of spirituous liquor and wine and the amount of spirituous liquor and wine on hand at the end of each month. They also shall show the amount of spirituous liquor or wine

sold or shipped to each wholesale licensee in this state; setting out the date of sale, name and address of licensee and amount of spirituous liquor or wine sold.

(C) Reports made by spirituous liquor and wine wholesalers in this state, among other things, shall show the amount of spirituous liquor and wine received from other distillers, rectifiers, wine manufacturers and wholesalers; the amount of liquor and wine sold other wholesale licensees; and the amount sold to retail licensees. They shall set out the name of each licensee, his/her address, the amount of spirituous liquor or wine sold and the date of sale.

(D) Forms for the reports required by this regulation shall be supplied by the supervisor.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973.*

**Original authority: 311.660, RSMo 1939, amended 1989.*



MISSOURI DEPARTMENT OF PUBLIC SAFETY
DIVISION OF LIQUOR CONTROL
P.O. BOX 837, JEFFERSON CITY, MISSOURI 65102

MONTH OF	19
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OUTSTATE SOLICITORS' MONTHLY REPORT AND TAX COMPUTATION

INSTRUCTIONS

Make tax computation form in triplicate, retaining one copy for your file, send two copies together with certified check, bank draft or money order, payable to Director of Revenue, for the amount of tax due, and Report of Sales to Wholesale Dealers (Form 39) mail to: Division of Liquor Control, P.O. Box 837, Jefferson City, Missouri 65102.

NAME	MO. LICENSE NUMBER
ADDRESS	CITY, STATE, ZIP CODE

TOTAL TAXABLE SALES TO MISSOURI WHOLESALERS DURING MONTH

SHOW BELOW TOTALS OF TAXABLE SALES WHICH HAVE BEEN DETAILED ON FORM 39.

Item 1 _____ gallons spirituous liquor	@ \$2.00 per wine gallon	\$
Item 2 _____ gallons wine	a. @ \$.30 per wine gallon	\$
	b. @ \$.06 per wine gallon	\$
Item 3 Total tax due on merchandise sold in Missouri during month, enter totals of Item 1 + Item 2 (Columns A and B)		\$

TO AVOID PENALTIES, THIS RETURN MUST BE FILED WITH THE DIVISION OF LIQUOR CONTROL WITHIN 15 DAYS AFTER CLOSE OF MONTH FOR WHICH RETURN IS MADE.

AFFIDAVIT

I am personally familiar with the statements made in this return and swear (or affirm) that the above report, together with attached schedules, constitutes a true and complete record of our sales in Missouri for the month aforesaid, and that all such sales have been made in accordance with the Missouri Liquor Law and Regulations.

MUST BE SIGNED IN PRESENCE OF NOTARY	SIGNATURE
	TITLE

NOTARY PUBLIC EMBOSSEER SEAL	STATE	COUNTY (OR CITY OF ST. LOUIS)
	SUBSCRIBED AND SWORN BEFORE ME, THIS	
	DAY OF	19
	USE RUBBER STAMP IN CLEAR AREA BELOW	
NOTARY PUBLIC SIGNATURE	MY COMMISSION EXPIRES	
NOTARY PUBLIC NAME (TYPED OR PRINTED)		



Distilleries and Wineries Monthly Report to State of Missouri

DEPARTMENT OF PUBLIC SAFETY
DIVISION OF LIQUOR CONTROL
Jefferson City, Missouri

Report for Month of 19.....

Name.....

Street No.....

This report must be filed with the Division of Liquor Control, Jefferson City, Missouri immediately after the close of each month, and not later than the 15th.

RECORD OF PRODUCTION—BULK REPORT

	Whiskey. Gallons	Gin. Gallons	Alcohol. Gallons	Light Wine. Gallons	Port. Wine. Gallons
Spirituos or Vinous Liquor on Hand First of Month					
Produced During Month					
Totals to be Accounted for					
Leakage and Waste					
Shipments to Bottlers— or Bottle Plant					
Shipments Out of State—Bulk					
Total Deductions					
Balance to be Accounted for					
Bulk Sales within State					
Balance on Hand End of Month					

DISTILLERS, RECTIFIERS AND BOTTLERS MONTHLY SPIRITUOUS LIQUOR REPORT

	RECORD OF PURCHASES AND SALES							
	Gallons	½ Gals.	Qt.	1-5ths	Pts.	10th Gals	½ Pts.	
Bottled Spirituous Liquor on Hand First of Month								
Spirituos Liquor Bottled During the Month								
Totals to be Accounted for								
Leakage and Waste								
Shipments out of State								
Total Deductions								
Balance to be Accounted for								
Tangible Sales within State								
Balance on Hand End of Month								

(Over)



WINERIES, RECTIFIERS AND BOTTLERS MONTHLY LIGHT WINE REPORT

RECORD OF PURCHASES AND SALES									
	Gallons	½ Gal.	Qts.	1-5ths	Pts.	10th Gal.	½ Pt.		
Bottled Vinous Liquor on Hand First of Month									
Vinous Liquor Bottled During the Month									
Totals to be Accounted for									
Leakage and Waste									
Shipments out of State									
Total Deductions									
Balance to be Accounted for									
Taxable Sales within State									
Balance on Hand End of Month									

WINERIES, RECTIFIERS AND BOTTLERS MONTHLY FORTIFIED WINE REPORT

RECORD OF PURCHASES AND SALES									
	Gallons	½ Gal.	Qts.	1-5ths	Pts.	10th Gal.	½ Pt.		
Bottled Vinous Liquor on Hand First of Month									
Vinous Liquor Bottled During the Month									
Totals to be Accounted for									
Leakage and Waste									
Shipments out of State									
Total Deductions									
Balance to be Accounted for									
Taxable Sales within State									
Balance on Hand End of Month									



Form 51

Serial number of form _____

_____ 19____
 Number each form beginning with "1" for
 first day of January each year.

Description Of Wine Used For Bottling

**SUPERVISOR OF
 DEPARTMENT OF PUBLIC SAFETY
 DIVISION OF LIQUOR CONTROL**

Below is itemized list of wine dumped for bottling:

Number of Barrels	Kind	Wine, Gallons	Light or Heavy
Total			

Certificate Of Cases Filled

I hereby certify that cases were filled from the bottling tank of wine described above

Date Filled	Size of Bottles	No. of Cases	Kind	Wine, Gallons
Total				

Gain or loss in bottling (draw line through one not applicable) _____

Signed _____
 (Name of Firm)

By _____
 (Officer of Firm)



MISSOURI DEPARTMENT OF PUBLIC SAFETY
 DIVISION OF LIQUOR CONTROL
 P.O. BOX 837, JEFFERSON CITY, MISSOURI 65102
WHOLESALE DISTRIBUTORS' MONTHLY REPORT & TAX COMPUTATION

MONTH OF	19
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SUBMIT IN DUPLICATE

REPORT OF (DISTRIBUTOR)	LICENSE NUMBER
ADDRESS	CITY, STATE, ZIP CODE

ITEM	STOCK ACCOUNT	COLUMN A LIQUOR	COLUMN B WINE	COLUMN C WINE
1.	Untaxed Merchandise on Hand at Beginning of Month			Enter Figure From Column B Line 6 in Column C Line 6
2.	ADD Untaxed Merchandise Received During Month (Schedule A)			
3.	Total Untaxed Merchandise Produced During Month			
4.	Total of Items 1, 2 and 3			
5.	DEDUCT Untaxed Merchandise on Hand at End of Month			
6.	Quantity Subject to Tax (Item 4 minus Item 5)			
7.	Rate Per Gallon	@ \$2.00	@ \$.30	@ \$.06
8.	Tax Due	\$	\$	\$
9.	Total Tax Due State of Missouri (Columns A + B + C)		\$	

TO AVOID PENALTIES, THIS RETURN MUST BE FILED WITH THE DIVISION OF LIQUOR CONTROL WITHIN 15 DAYS AFTER CLOSE OF MONTH FOR WHICH RETURN IS MADE.

AFFIDAVIT

I swear or affirm that this return, together with attached schedules, is a true and complete report of our untaxed merchandise, and is an accurate report of tax due in accordance with the Missouri Liquor Laws and Regulations.

MUST BE SIGNED IN PRESENCE OF NOTARY	SIGNATURE
	TITLE

NOTARY PUBLIC EMBOSSEER SEAL	STATE	COUNTY (OR CITY OF ST. LOUIS)	
	SUBSCRIBED AND SWORN BEFORE ME, THIS DAY OF 19		
	NOTARY PUBLIC SIGNATURE	MY COMMISSION EXPIRES	USE RUBBER STAMP IN CLEAR AREA BELOW
	NOTARY PUBLIC NAME (TYPED OR PRINTED)		



Prepare in Duplicate and Retain Copy for Your Files

SCHEDULE A

STATE OF MISSOURI DEPARTMENT OF PUBLIC SAFETY DIVISION OF LIQUOR CONTROL Jefferson City, Mo.

ALCOHOLIC LIQUORS RECEIVED UNTAXED

Name _____

License No. _____

Address _____ Street and No.

Month of _____, 19____

_____ City

REPORT IN (WINE) GALLONS

Table with 5 columns: Invoice Number and Date, PURCHASED FROM NAME AND ADDRESS, Spirituous Liquor, Wines, REMARKS. Includes a TOTALS row at the bottom.

The receipt of the above merchandise is to be reported also on Received Report Form 35.



**MISSOURI DEPARTMENT OF PUBLIC SAFETY
DEPARTMENT OF LIQUOR CONTROL
RECEIVED REPORT**

MANAGER OF WHOLESALE DISTRIBUTION WHO RECEIVED LIQUOR

REPORT ALL LIQUOR AND WINE RECEIVED IN BOTH WHOLESALE AND BONDED WAREHOUSE ON THIS FORM. THE ORIGINAL OF THIS REPORT MUST BE ON FILE IN THE OFFICE OF THE DEPARTMENT OF LIQUOR CONTROL, JEFFERSON CITY, MISSOURI, NOT LATER THAN THE 15TH DAY OF EACH MONTH. THE DUPLICATE COPY TO BE RETAINED FOR YOUR FILES

MONTH _____, 19__

LICENSE NUMBER _____

(1) DATE OF INVOICE REC'D	(2) SUPPLIER LICENSE NUMBER	(3) FROM WHOM RECEIVED	(4) FROM WHENCE RECEIVED	(5) CITY AND STATE	(6) NUMBER OF CASES	(7) SPIRITS OR WINE	(8) GALLONS	(9) OUR WAREHOUSE	(10) IN BONDED WAREHOUSE	(11) TAX PAID	(12) INVOICE NUMBER	(13) REMARKS

COUNTY (CITY OF ST. LOUIS) _____

STATE _____

SUBSCRIBED AND SWORN BEFORE ME, THIS _____ DAY OF _____, 19__

HOLY PUBLIC SIGNATURE _____

NOTARY PUBLIC NAME (TYPE OR PRINT) _____

WE HEREBY CERTIFY THAT THIS REPORT COVERS ALL ALCOHOL, LIQUOR, WINES, ETC., RECEIVED BY US IN BOTH BONDED AND OUR WAREHOUSE DURING THE STATED MONTH

MONTH OF _____ YEAR _____

FORM NAME _____ OFFICER _____

DISTRIBUTION: WHITE LIQUOR CONTROL ACCOUNT CLERK YELLOW - RETAINED BY ORIGINATOR

FORM 25

**11 CSR 70-2.100 Report of Brewers and Beer Wholesalers**

PURPOSE: This rule establishes format for reports of shipment and payment of taxes on malt beverages and nonintoxicating beer.

(1) Every manufacturer, brewer and bottler authorized to ship malt liquor or nonintoxicating beer into this state and every manufacturer, brewer or bottler in this state, whether for sale in this state or to be shipped outside this state, shall on or before the fifteenth day of each month, make, a report under oath, for the preceding month, to the supervisor of liquor control, setting out all sales of malt liquor and nonintoxicating beer.

(A) The reports, when made by a licensee who has shipped malt liquor and nonintoxicating beer into this state, shall show the amount of malt liquor and nonintoxicating beer shipped or sold to each wholesaler in this state, designating separately the amount of malt liquor and the amount of nonintoxicating beer and designating further what part of them was draught malt liquor and what part of them was bottled or canned malt liquor and designating further what part of them was draught nonintoxicating beer and what part of them was bottled or canned nonintoxicating beer. In addition, every brewer, manufacturer and wholesaler authorized to sell and ship malt liquor and nonintoxicating beer into this state, whether for sale in this state or to be shipped outside this state, at the time of making monthly reports, shall send to the supervisor of liquor control true copies of invoices of the sales of malt liquor and nonintoxicating beer contained in each invoice.

(2) Reports made by manufacturers, brewers and bottlers in this state shall show the quantity of malt liquor or nonintoxicating beer on hand at the beginning of the month, the quantity produced during the month and the quantity sold or shipped out of the state during the month and the quantity on hand at the end of the month, designating separately the amount of malt liquor and the amount of nonintoxicating beer. The report also shall show the amount of malt liquor and nonintoxicating beer shipped or sold to each licensee in this state, designating separately the amount of malt liquor and nonintoxicating beer, and what part was draught and what part was bottled or canned, designating separately the amount of malt liquor and nonintoxicating beer.

(3) It shall be the duty of each holder of a license authorizing the sale of malt liquor or nonintoxicating beer at wholesale to file in

the office of the supervisor of liquor control on or before the fifteenth day of the month a sworn statement showing the amount of malt liquor or nonintoxicating beer purchased during the preceding month, and from whom purchased and designating what part of the amount was draught malt liquor and designating further what part was draught nonintoxicating beer and what part of the amount was bottled or canned nonintoxicating beer.

(A) Forms for the reports required by this regulation shall be supplied by the supervisor.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973.*

**Original authority: 311.660, RSMo 1939, amended 1989.*



SCHEDULE F

BREWERS REPORT OF OUT-OF-STATE SALES

DEPARTMENT OF LIQUOR CONTROL

Jefferson City, Mo.

Report for Month of _____, 19____

Name of Brewer _____

Street _____ City _____

This report must accompany your monthly report of beer sales within the State of Missouri, and is to include all sales outside of the state on which a deduction is claimed from Missouri state tax due to export. Both reports to be in the office of the Department of Liquor Control, not later than the 15th of month following sales.

	Bbls.	½ Bbls.	¼ Bbls.	⅓ Bbls.	Cases 12/12-oz. Bottles	Cases 24/12-oz. Bottles	Cases 12/24-oz. Bottles	Cases 12/32-oz. Bottles	Cases 6/64-oz. Bottles	Cases Bottles 6/64-oz.	Total Gallons
5% Beer Shipped Out of State											
3.2% Beer Shipped Out of State											
TOTALS											

State of Missouri }
_____ of _____ } ss.

The undersigned being duly sworn states that he is familiar with the records above set out and that they constitute a true and correct statement of the amount of beer exported from the State of Missouri.

Subscribed and sworn to before me this _____

day of _____, 195____

Signed: _____

Notary Public.

My commission expires _____

Title.

LIST STATES INTO WHICH BEER WAS SOLD ON REVERSE SIDE



**MISSOURI DEPARTMENT OF PUBLIC SAFETY
DIVISION OF LIQUOR CONTROL
BEER RECEIVED FROM BREWERS AND
OUTSTATE SOLICITORS**

MONTH	YEAR
-------	------

LICENSE NUMBER	WHOLESALE DISTRIBUTOR
STREET ADDRESS	
CITY, STATE, ZIP	

Report all beer received from BREWERS AND OUTSTATE SOLICITORS on this form. The original of this report must be on file in the office of the Division of Liquor Control, Jefferson City, Missouri, not later than the 15th day of each month. The duplicate copy to be retained for your files.

BREWER OR OUTSTATE SOLICITOR LICENSE NUMBER	INVOICE NUMBER AND DATE	NAME OF CUSTOMER AND STREET ADDRESS	CITY, STATE AND ZIP	5% BEER GALLONS	3.2% BEER GALLONS
TOTAL ▶					

MO 812-0544 (3-87)

FORM 21

**11 CSR 70-2.110 Domestic Wine**

PURPOSE: This rule establishes rules for domestic wine producers licensed under section 311.190, RSMo.

- (1) All domestic wine sold must be in an original package of not less than one hundred (100) milliliters (3.4 ounces) nor more than fifteen and one-half (15.5) gallons.
- (2) No person licensed to manufacture and sell domestic wine may use or permit other persons to use any concentrate in production.
- (3) All premises used for the manufacture and sale of domestic wine shall be separate and apart from any residence.
- (4) All domestic wine in the process of fermentation shall be kept on the premises covered by the license.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed July 11, 1984, effective Oct. 11, 1984.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.120 Retail Licensees

PURPOSE: This rule establishes conditions of licensing and operation of premises.

- (1) All retail intoxicating liquor and nonintoxicating beer licensees shall keep their licensed premises clean and sanitary and meeting minimum standards of the Missouri Department of Health, as prescribed in 19 CSR 20-1.010 and local sanitation laws and ordinances where applicable.
- (2) If any retail licensee holds more than one (1) kind of license for separate business in the same building, then the building shall be partitioned in a manner that the partitions shall run from the front of the building to the rear of the building, from the ceiling to the floor and be permanently affixed to the ceiling, floor, front and rear of the building in a manner as to make two (2) separate and distinct premises. There shall be a separate entrance in front of each of the premises and each of the premises shall have a different street address, so as to indicate sufficiently that the businesses are run separately and distinct from each other and not in conjunction with each other. In addition, the business maintained on each of the premises must be manned and serviced by an entirely separate

and distinct group of employees and there shall be no buzzers, bells or other wiring or speaking system connecting one (1) business with the other. Separate files, records and accounts pertaining to the businesses must be maintained.

- (3) Hotels holding licenses in their names authorizing the retail sale of intoxicating liquor by the drink for consumption on the premises where sold may maintain as many bars as they like on the licensed premises, provided that the places at which it is sold by the drink, in all respects, shall comply with the provisions of section 311.330, RSMo, that is to say, they shall be easily visible from some hallway, lobby or mezzanine or other part of the hotel; provided further that hotels may dispense intoxicating liquors throughout the whole of the hotel.

- (4) Municipal or county airports or terminals or their lessees or concessionaires, leasing or having concession rights for the whole or a particular part of the facility, holding licenses authorizing the retail sale of intoxicating liquor by the drink for consumption on the premises where sold may maintain as many bars as they like on the licensed premises, provided that the places at which it is sold by the drink, in all respects, shall comply with the provisions of section 311.330, RSMo. They shall be easily visible from some hallway, lobby or mezzanine or other part of the airport or terminal to or through which the public is invited. Provided further, that the applicant, at the time license is applied for, shall advise the supervisor of liquor control in writing of the number of bars to be operated and their locations.

- (5) Retailers shall not place or permit the placing of any object on or within the windows of premises covered by licenses which shall impede or obstruct vision from the exterior into the interior. This prohibition shall include illuminated signs, floral decorations, posters, placards, paintings or writings and all other similar devices or designs. In case venetian blinds are used in windows, slats shall be removed entirely across the blind so as to make a visible space beginning at four feet (4') from the sidewalk, and extending six feet (6') above the sidewalk, if the venetian blinds are kept closed. If the venetian blinds are kept open, it shall not be necessary to remove slats provided the slats at all times shall be adjusted horizontally so that the flat surfaces of the seats are parallel with the floor of the licensed premises. If curtains are used, they must be drawn apart so as to permit a clear view into the interior of the premises.

- (6) No holder of a retail license shall use illuminated brand signs exclusively for illuminating purposes. Sufficient light must be maintained at all times to insure clear visibility into the interior and within the interior of the premises.

- (7) No licensee shall operate, play, or permit the operation of any public speaking system transmitter, sound amplification device or any other type of device, mechanical or electronic, to emit or direct music, spoken words, sounds or noise of any kind exceeding eighty-six decibels on an A-weighted scale when measured across a residential property line fifty feet (50') or more from the source of the noise between the hours of 11:00 pm and 11:00 am. This regulation does not supersede any state or local laws or ordinances regulating noise in the area.

- (8) Licenses authorizing the retail sale of intoxicating liquor by the drink on Sunday between the hours of 11:00 a.m. and midnight may be issued to qualified applicants for restaurant-bars as defined in section 311.097, RSMo.

(A) An applicant for a restaurant-bar license first shall obtain a license authorizing the retail sale of intoxicating liquor by the drink as provided in either section 311.085, 311.090 or 311.095, RSMo.

(B) Premises for which a restaurant-bar license is sought shall be exactly the same as those premises covered by an existing retail sale of intoxicating liquor by the drink license and the description of the premises on each license shall be identical.

(C) Applicants for a restaurant-bar license shall furnish with the application a certified statement signed by the applicant showing that at least fifty percent (50%) of the gross income of the restaurant-bar for the past one (1) year immediately preceding the application was derived from the sale of prepared meals or food consumed on the premises or a certified statement signed by the applicant showing an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on the premises. Applicants who have not been in business one (1) year shall have been in business at least ninety (90) days immediately preceding application for a restaurant-bar license and shall furnish a certified statement signed by the applicant showing that at least fifty percent (50%) of gross income of the restaurant-bar during the total period of time that it has been in business was derived from the sale of prepared meals or food consumed on the premises or a certified statement signed by the applicant showing



that a projected experience based upon its sale of food during the preceding ninety (90) days would exceed not less than two hundred thousand dollars (\$200,000) per year.

(D) Each application for renewal of a restaurant-bar license shall be accompanied by a certified statement signed by the licensee showing that at least fifty percent (50%) of the gross income of the restaurant-bar for the past one (1) year immediately preceding the date of the renewal application or past calendar year immediately preceding the date of the renewal application was derived from the sale of prepared meals or food consumed on the premises or a certified statement signed by the applicant showing that the restaurant establishment's annual gross food sales for the past year immediately preceding the date of the renewal application or past calendar year immediately preceding the date of the renewal application shall not have been less than two hundred thousand dollars (\$200,000) per year. Applicants not in business one (1) year shall show projected experience based on total period of time in business.

(E) Applicants for a restaurant-bar license shall prepare and maintain the following records in order to substantiate the sales figures as presented in the certified statement, including, but not limited to: prenumbered guest checks, cash register tapes, bank statements and cancelled checks, and invoices for food and intoxicating liquor purchases.

(9) In order to qualify for the exemption to the limitation of three (3) licenses to sell intoxicating liquor at retail by drink for consumption on the premises, as provided in section 311.260, RSMo, licensees, at the time of seeking exemption, shall be required to—

(A) Make application to the supervisor for the exemption;

(B) Furnish with the application a certified statement signed by the licensee showing that at least fifty percent (50%) of the gross income of the restaurant-bar for which exemption is sought, for the past one (1) year immediately preceding the date of the application or past calendar year immediately preceding the date of the application was derived from the sale of prepared meals or food consumed on premises where sold or which has an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on premises where sold. Applicants who have not been in the restaurant-bar business one (1) year shall have been in business at least ninety (90) days immediately preceding application for the license and shall furnish a certified statement signed by the applicant show-

ing that at least fifty percent (50%) of the gross income of the restaurant-bar for which exemption is sought, during the ninety (90)-day period was derived from the sale of prepared meals or food consumed on premises where sold or which has an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on premises where sold; and

(C) Furnish with each application for renewal of any license which has been exempted from the limitation, a certified statement signed by the licensee showing that at least fifty percent (50%) of the gross income of the business for the past one (1) year immediately preceding the date of renewal application or past calendar year immediately preceding the date of the renewal application was derived from the sale of prepared meals or food consumed on the premises where sold or which has an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on premises where sold.

(10) Resorts. Licenses authorizing the retail sale of liquor by the drink may be issued to qualified applicants for resorts as defined in section 311.095, RSMo.

(A) An applicant qualifying as a resort shall furnish with the application, a certified statement signed by the applicant showing that the establishment has at least thirty (30) rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least sixty percent (60%) of the gross income of which is derived from the sale of prepared meals or food.

(B) Each application for renewal of a resort license shall be accompanied by a certified statement signed by the applicant showing that at least sixty percent (60%) of the gross income from restaurant or similar facility for the past year immediately preceding the date of the renewal application or past calendar year immediately preceding the date of the renewal application was derived from the sale of prepared meals or food.

(C) Applicants qualifying for a resort license as a restaurant shall furnish with the application a certified statement signed by the applicant showing that the restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales. Applicants who have not been in business one (1) year

shall have been in business at least ninety (90) days immediately preceding the application for a license and shall furnish a certified statement signed by the applicant, showing that a projected annual experience based upon its gross receipts during the ninety (90)-day period immediately preceding the date of application would exceed not less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales.

(D) Each application for renewal of a resort license as a restaurant shall be accompanied by a certified statement signed by the applicant showing that the restaurant establishment's annual gross receipts immediately preceding the date of the renewal application shall not have been less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales. Applicants for renewal who have not been in business one (1) year immediately preceding application for renewal shall furnish a certified statement signed by the applicant showing that a projected annual experience, based upon its gross receipts during the ninety (90)-day period immediately preceding the date of application, would exceed not less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such receipts from nonalcoholic sales.

(E) Applicants for a resort license shall prepare and maintain the following records in order to substantiate the sales figures as presented in the certified statement, including, but not limited to: prenumbered guest checks, cash register tapes, bank statements and cancelled checks, and invoices for food and intoxicating liquor purchases.

AUTHORITY: section 311.660, RSMo 2000. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed June 7, 1977, effective Sept. 11, 1977. Amended: Filed Aug. 20, 1979, effective Dec. 13, 1979. Amended: Filed Aug. 11, 1980, effective Nov. 13, 1980. Amended: Filed Jan. 2, 1981, effective April 11, 1981. Amended: Filed Feb. 16, 1984, effective June 11, 1984. Amended: Filed Jan. 7, 1985, effective April 11, 1985. Amended: Filed July 25, 1986, effective Oct. 11, 1986. Amended: Filed Jan. 8, 1990, effective April 26, 1990. Amended: Filed Nov. 18, 1991, effective April 9, 1992. Amended: Filed Dec. 2, 1993, effective June 6, 1994. Amended: Filed Jan. 22, 1996, effective July 30, 1996. Amended: Filed Nov. 20, 2003, effective July 30, 2004.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

**11 CSR 70-2.130 Retailer's Conduct of Business**

PURPOSE: This rule establishes general rules of conducting retail establishments.

(1) No licensee who shall have had his/her license suspended by order of the supervisor of liquor control shall sell, give away or permit the consumption of any intoxicating liquor or nonintoxicating beer, nor shall s/he order or accept delivery of any intoxicating liquor or nonintoxicating beer during the period of time the order of suspension is in effect. Any licensee desiring to keep his/her premises open for the sale of food or merchandise during the period of suspension shall display the order of suspension issued by the supervisor of liquor control in a conspicuous place on the premises so that all persons visiting the premises may readily see the order of suspension.

(2) No person holding a license for the retail sale of malt liquor by the drink or for the sale of nonintoxicating beer by the drink knowingly shall sell, give away or serve upon the premises described in the license any glass, ice, water, soda water, phosphates or any other kind of liquids to be used for the purpose of mixing intoxicating drinks and commonly referred to as set-ups; nor shall any licensee allow any person while in or upon the premises covered by the license to possess or consume any intoxicating liquor other than malt liquor, if the license is to sell malt liquor containing more than three and two-tenths percent (3.2%) alcohol by weight or any kind of intoxicating liquor if the license is to sell nonintoxicating beer or to pour into, mix with or add intoxicating liquor to water, soda water, ginger ale, seltzer or other liquid.

(3) The holder of a license authorizing the retail sale of intoxicating liquor by the drink may sell liquor in any quantity, not for resale, but shall not possess any spirituous liquor in any container having a capacity of more than one (1) gallon or any wine in any container having a capacity of more than fifteen and one-half (15 1/2) gallons.

(4) No person holding a license authorizing the retail sale of intoxicating liquor or nonintoxicating beer shall sell or deliver any liquor to any person with knowledge or with reasonable cause to believe, that the person to whom the liquor is sold or delivered has acquired the liquor for the purpose of peddling or reselling it.

(5) No licensee shall sell, give away or possess any spirituous liquor from or in any con-

tainer when the intoxicating liquor is not that set out on the manufacturer's label on the container or does not have alcoholic content shown on the manufacturer's label.

(6) No retail licensee may bottle any intoxicating liquor from any barrel or other container nor may s/he refill any bottle or add to the contents of the bottle from any barrel or other container.

(7) A licensee selling intoxicating liquor by the drink, when requested to serve a particular brand or type of spirituous liquor or beer, shall not substitute another brand or type of spirituous liquor or beer.

(8) No person holding a license authorizing the sale of intoxicating liquor in the original package shall have the trade name using the words liquor store nor shall s/he advertise his/her place of business as or doing business as a liquor store.

(9) No retail licensee shall allow or cause any sign or advertisement pertaining to intoxicating liquor or malt beverages to be carried or transported upon any sidewalk or street of any municipality or upon any highway of the state. This provision shall not apply to any legal sign or advertisement placed on a vehicle being used to deliver intoxicating liquor or malt beverages.

(10) Whenever hours of time are set forth in the Liquor Control Act, they shall be interpreted to mean clock time which shall be either Central Standard Time or Central Daylight Time, whichever one is then being observed.

(11) No person holding a license authorizing the retail sale of intoxicating liquor or nonintoxicating beer shall possess any intoxicating liquor or nonintoxicating beer which has not been purchased from, by or through duly licensed wholesalers.

(12) No holder of a license to sell intoxicating liquor, five percent (5%) beer or nonintoxicating beer by the drink shall give to, sell or permit to be given to or sold to any on duty employee of the establishment operated by the licensee any intoxicating liquor or nonintoxicating beer, in any quantity, nor shall s/he permit any patron of the establishment operated by him/her to give to any on duty employee any intoxicating liquor or nonintoxicating beer, in any quantity, or to purchase it for or drink it with any on duty employee, in the establishment or on premises of the licensee. This provision shall not apply when the establishment is closed to the public, so

long as the licensee is allowed to be open at that time pursuant to section 311.290, RSMo, or any other provisions of Chapters 311 or 312 relating to opening and closing.

(13) Improper Acts.

(A) At no time, under any circumstances, shall any licensee or his/her employees immediately fail to prevent or suppress any violent quarrel, disorder, brawl, fight or other improper or unlawful conduct of any person upon the licensed premises, nor shall any licensee or his/her employees allow any indecent, profane or obscene language, song, entertainment, literature or advertising material upon the licensed premises.

(B) In the event that a licensee or his/her employee knows or should have known, that an illegal or violent act has been committed on or about the licensed premises, they immediately shall report the occurrence to law enforcement authorities and shall cooperate with law enforcement authorities and agents of the Division of Liquor Control during the course of any investigation into an occurrence.

(14) Lewdness. No retail licensee or his/her employee shall permit in or upon his/her licensed premises—

(A) The performance of acts, or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(B) The displaying of any portion of the areola of the female breast;

(C) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;

(D) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;

(E) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to public view any portion of his/her genitals or anus; and

(F) The displaying of films, video programs or pictures depicting acts, the live performances of which are prohibited by this regulation or by any other law.

(15) In the event the premises of any licensee is declared to be off-limits by the military authorities, the licensee shall not permit any member of the armed forces to be in or upon the premises covered by his/her license. Provided, this shall not apply unless the licensee is notified of the order by the supervisor of liquor control nor shall it apply to members of the Military Police or Shore Patrol.



AUTHORITY: section 311.660, RSMo 1994. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Aug. 23, 1974, effective Sept. 2, 1974. Amended: Filed May 16, 1977, effective Aug. 11, 1977. Amended: Filed Aug. 20, 1979, effective Dec. 13, 1979. Amended: Filed April 23, 1981, effective Aug. 13, 1981. Amended: Filed April 7, 1983, effective July 11, 1983. Amended: Filed May 25, 1983, effective Sept. 11, 1983. Amended: Filed Aug. 5, 1991, effective Jan. 13, 1992. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

Chilton v. Wright, 480 SW2d 1 (1972). Two agents testifying that they removed 44 bottles of liquor from licensee's premises suspected to be refills in violation of rules and regulations because some appeared to be overfilled and some had worn strip stamps on their necks, along with testimony of expert chemist, was competent substantial evidence that the licensee possessed refilled bottles in violation of rules and regulations 13(c) (now covered by 11 CSR 70-2.130(6)). But evidence of "several different brands of liquor—the bulk of it was in half-pints and pints" and the geographical location of the retail outlet and its proximity to known "dry" states did not constitute substantial evidence that the licensees had reasonable cause to believe that their customers purchased liquor for purposes of resale in violation of rule 13(d) (now 11 CSR 70-2.130(4)).

11 CSR 70-2.140 All Licensees

PURPOSE: This rule establishes additional rules for the conduct of business in both retail and wholesale establishments regarding inspection, record keeping, storage, employment, sales, gambling and consumption by minors.

(1) Licensees at all times are responsible for the conduct of their business and at all times are directly responsible for any act or conduct of any employee on the premises which is in violation of the Intoxicating Liquor Laws or the Nonintoxicating Beer Laws or the regulations of the supervisor of liquor control.

(2) All licensees shall allow the licensed premises and all portions of the buildings of the premises, including all rooms, cellars, outbuildings, passageways, closets, vaults, yards, attics and all buildings used in connection with the operations carried on under the

license and which are in their possession or under their control, and all places where they keep or have liquor stored, to be inspected by the supervisor of liquor control and their agents. Licensees shall cooperate fully with the agents during the inspections.

(3) All licensees are required to keep complete and accurate records pertaining to their businesses. These records shall include a complete and accurate record of all purchases and of all sales of intoxicating liquor and nonintoxicating beer made by them. These records must include the names and addresses of all persons from whom the liquor is purchased, the dates, kinds and quantities of the purchases and the dates and amounts of payments on account. They also should include the daily gross returns from sales.

(A) All licensees shall keep all files, books, records, papers, state, county and city licenses, federal tax stamps and accounts and memoranda pertaining to the business conducted by them, on the licensed premises and they, upon request of the supervisor of liquor control or his/her duly authorized agents and auditors, promptly shall allow an inspection and audit to be made by the supervisor or his/her agents, of files, books, records, papers, state, county and city licenses, federal tax stamps, accounts and memoranda and shall permit copies to be made and taken of them.

(B) All records required to be kept by law or rule of the supervisor must be kept and preserved for a period of two (2) years from the date the record was made.

(4) No licensee shall buy or accept any warehouse receipt unless the seller or donor of the receipt first shall acquire the written permission of the supervisor of liquor control to sell or give away the receipt.

(5) No licensee shall have consigned to him/her, receive or accept the delivery of, or keep in storage any intoxicating liquors or nonintoxicating beer upon any premises other than those described in his/her license without first having obtained the written permission of the supervisor of liquor control.

(6) No wholesale or retail licensee shall sell or possess any spirituous liquor in any package or container holding less than fifty (50) milliliters (1.7 ounces) or more than one (1) gallon. No wholesale or retail licensee shall sell or possess any wine in any package or container holding less than one hundred (100) milliliters (3.4 ounces) or more than fifteen and one-half (15 1/2) gallons.

(7) Sale by Minor Prohibited—Exceptions. No person licensed by the supervisor of liquor control to sell intoxicating liquor or nonintoxicating beer in the original package shall employ any person under the age of twenty-one (21) years to sell or assist in the sale or dispensing of intoxicating liquor or nonintoxicating beer except that any business so licensed may employ persons at least eighteen (18) years of age to stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment and sack for carrying out intoxicating liquor or nonintoxicating beer. Employees under the age of twenty-one (21) years may not deliver intoxicating liquor, nor take nonintoxicating beer away from the licensed premises. No person licensed by the supervisor of liquor control to sell intoxicating liquor, or nonintoxicating beer by the drink shall employ any person under the age of twenty-one (21) years to sell or assist in the sale or dispensing of intoxicating liquor, or nonintoxicating beer except that any business so licensed, persons eighteen (18) years of age or older, when acting in the capacity as a waiter or waitress, may accept payment for or serve intoxicating liquor, or nonintoxicating beer in places of business which sell food for consumption on the premises if at least fifty percent (50%) of all sales in those places consist of food. Employees under twenty-one (21) years of age shall not mix or serve across the bar intoxicating beverages or nonintoxicating beer.

(8) Licensees who—

(A) Desire to employ persons under the age of twenty-one (21) as authorized by section (7) shall make application to supervisor using forms provided for that purpose; and

(B) Employ persons under the age of twenty-one (21) years as authorized by section (7) who do not have at least fifty percent (50%) of the gross sales consisting of nonalcoholic sales shall have an employee twenty-one (21) years of age or older on the licensed premises during all hours of operation.

(9) No person licensed by the supervisor of liquor control shall use or permit to be used upon his/her licensed premises any self-service, coin-operated, mechanical devices or automatic dispensers for the purpose of selling or dispensing intoxicating liquor or nonintoxicating beer.

(10) No licensee shall permit, upon or about his/her licensed premises, any gambling of any kind or character whatsoever in which the one who plays stands to win or lose money, trade checks, prizes, merchandise or



any other consideration whatsoever. No licensee shall have any gambling devices upon his/her licensed premises where money, trade checks, prizes, merchandise or property or any other consideration whatsoever may be won or lost. Notwithstanding the previously mentioned, any licensee may sponsor or allow promotional games or contests of chance to be conducted upon his/her licensed premises, provided that—

(A) For purposes of this section, the phrase something of value means any money or property, any token, object or article exchangeable for money or property or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest in them or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge;

(B) Money or something of value is not required to be given directly or indirectly for the privilege or opportunity of participating in games or contests or for receiving the award or prize from participation;

(C) Intoxicating liquor, five percent (5%) beer or nonintoxicating beer is not related to or an element of a game or contest either directly or indirectly;

(D) The conduct or playing of games of bingo on licensed premises by organizations licensed by the Missouri Gaming Commission to conduct bingo in accordance with Chapter 313, RSMo, shall not constitute gambling or gambling activities when the games are conducted in accordance with Chapter 313, RSMo and the activity, by itself, shall not constitute a violation of this regulation;

(E) The sale of state lottery tickets or shares on licensed premises licensed by the lottery commission to sell lottery tickets or shares to the public shall not be deemed to constitute gambling or gambling devices when conducted in accordance with Chapter 313, RSMo and the activity, by itself, shall not constitute a violation of this regulation;

(F) Pari-mutual wagering on horses at licensed tracks licensed by the Missouri Horse Racing Commission shall not be deemed to constitute gambling or gambling devices when conducted in accordance with Chapter 313, RSMo and this activity on licensed premises, by itself, shall not constitute a violation of this regulation; and

(G) The giving of door prizes or other gifts by lot or drawing after payment of a price by members or guests of a charitable organization which has obtained an exemption from payment of federal income taxes as provided in Section 501(C)(3) of the *Internal Revenue Code* of 1954, shall not constitute gambling

or gambling devices when conducted on licensed premises by the charitable organization and that activity, by itself, shall not constitute a violation of this regulation.

(11) No licensee shall employ on or about the licensed premises any person who has been convicted since the ratification of the twenty-first amendment of the *Constitution of the United States* of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor; nor shall any licensee employ on or about the licensed premises any person who shall have had a license revoked under Chapter 311 or 312, RSMo.

(A) No retail licensee shall employ a prohibited felon to any position that involves the direct participation in retail sales of intoxicating liquor. The phrase "direct participation in retail sales" includes the duties of accepting payment, taking orders, delivering, mixing or assisting in the mixing or serving of intoxicating liquor in the capacity of, but not limited to, bar manager, bartender, waiter, waitress, cashier, and sales clerk.

(B) A "prohibited felon" is one who has been convicted of a crime under the laws of any state or the United States, where the possible penalty at the time of the offense exceeded one (1) year confinement and the crime involves homicide, assault involving a threat of death or serious injury or actual physical injury, assault upon a law enforcement officer, kidnapping or false imprisonment, any action that would constitute a sexual offense under Chapter 566, RSMo, prostitution, pornography, robbery, arson, stealing, burglary, forgery, counterfeiting, identity theft or false identification, bribery, unlawful use of a weapon, gambling, driving or boating while intoxicated, perjury, fake reports or declarations, the possession, purchase, sale or manufacture of drugs, tax fraud, mail fraud, food stamp fraud, or welfare fraud.

(C) Each retail licensee shall report the identify of any employee with a felony conviction to the supervisor of alcohol and tobacco control within ten (10) days of his/her employment and each retail licensee shall notify the supervisor of alcohol and tobacco control within ten (10) days of the employee leaving the licensee's employment, using forms provided by the division for that purpose.

(D) If the employee is hired in a position that involves the direct participation in retail sales and is a prohibited felon, the division shall notify the licensee that the employee may not serve in the position involving the direct participation in retail sales upon receipt

of notice from the licensee. The licensee will either dismiss the employee or reassign the employee to a position not involving the direct participation in retail sales within ten (10) days of the date notice is received by licensee from the division by regular mail service.

(E) If the division determines that an employee involved in the direct participation of retail sales has a felony conviction not listed in subsection (11)(B), above, but believes that the felon's conviction should disqualify the employee from the direct participation in retail sales, the division will notify the licensee within ten (10) days. The licensee will either dismiss the employee, reassign the employee to a position not directly involving the retail sale of intoxicating liquor, or file a written appeal with the division within ten (10) days of receiving notice from the division by regular mail service.

(F) If a licensee, or any employee of the licensee acting through the licensee, wishes to appeal a determination by the division that the employee is disqualified from the direct participation in the retail sale of intoxicating liquor as set forth in subsection (11)(E), above, the appeal will be heard by the supervisor or his/her designee within thirty (30) days of the division receiving written notice of the appeal. At the appeal, the division will determine whether the employee's conviction is reasonably related to the competency of the employee to be involved in the direct participation of retail sales. A written determination will be sent to the licensee and employee, if an address is supplied by the employee, within ten (10) days of the appeal.

(12) No licensee, his/her agent or employee shall sell intoxicating liquor or nonintoxicating beer in any place other than that designated on the license or at any other time or in any other manner except as authorized by the license.

(13) No licensee shall permit anyone under the age of twenty-one (21) years of age to consume intoxicating liquor or three and two-tenths percent (3.2%) nonintoxicating beer upon or about his/her licensed premises.

(14) No licensee or employee shall allow upon or about the licensed premises solicitation for the purposes of prostitution or other immoral activities by any person.

(15) No licensee or employee shall possess, store, sell or offer for sale, give away or otherwise dispose of upon or about the licensed premises or permit any person upon or about the licensed premises to possess, store, sell or offer for sale, give away or otherwise dispose



of any controlled substance as defined in Chapter 195, RSMo.

(16) Except as otherwise provided in any provision of Chapter 311 or 312 relating to Sunday licenses, no holder of a license to sell intoxicating liquor or nonintoxicating beer shall sell, give away or otherwise dispose of any nonintoxicating beer upon or about the licensed premises between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Further, no nonintoxicating beer may be sold, given away or otherwise disposed of, on premises used as a polling place, between the hours of 1:30 a.m. and 7:30 p.m. upon the day of any general or primary election day in this state.

(17) No licensee or employee shall mix or pour, or permit to be mixed or poured, any intoxicating liquor or nonintoxicating beer directly into any person's mouth upon or about the licensed premises.

AUTHORITY: section 311.660, RSMo 2000. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Aug. 23, 1974, effective Sept. 2, 1974. Amended: Filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 4, 1976, effective Nov. 11, 1976. Amended: Filed Sept. 30, 1976, effective April 15, 1977. Amended: Filed Aug. 21, 1980, effective Dec. 12, 1980. Amended: Filed Aug. 5, 1981, effective Nov. 12, 1981. Amended: Filed Nov. 6, 1981, effective Feb. 11, 1982. Amended: Filed April 7, 1983, effective July 11, 1983. Amended: Filed July 11, 1984, effective Oct. 11, 1984. Amended: Filed Aug. 30, 1985, effective Nov. 11, 1985. Amended: Filed May 13, 1986, effective July 26, 1986. Amended: Filed Aug. 14, 1987, effective Nov. 12, 1987. Amended: Filed Oct. 14, 1987, effective Jan. 14, 1988. Emergency amendment filed Nov. 22, 1989, effective Dec. 2, 1989, expired March 31, 1990. Amended: Filed Nov. 30, 1989, effective Feb. 25, 1990. Amended: Filed Aug. 5, 1991, effective Jan. 13, 1992. Amended: Filed Nov. 4, 1991, effective March 9, 1992. Emergency amendment filed Aug. 26, 1996, effective Sept. 5, 1996, expired March 3, 1997. Amended: Filed Aug. 26, 1996, effective Feb. 28, 1997. Amended: Filed Nov. 21, 1996, effective May 30, 1997. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998. Amended: Filed Nov. 20, 2003, effective July 30, 2004.*

*Original authority: 311.660, RSMo 1939, amended 1989.

State ex rel., Glendinning Co. v. Letz, 591 SW2d 92 (Mo. App. 1979). The Supervisor of Liquor Control may prohibit gambling on licensed premises by rule despite the general preemption language contained in the criminal code at section 572.100, RSMo.

Op. Atty. Gen. No. 178, Wilson (10-18-79). A person convicted of supplying intoxicating liquor to a minor does not necessarily violate section 311.060, RSMo (regarding licensing) or 11 CSR 70-2.140(13) (regarding employment).

State ex rel. Letz v. Riley, 559 SW2d 631 (Mo. App. 1977). Despite the issuance by the attorney general of a "no action" letter stating that certain games in theory were not violative of Chapter 563, RSMo, the doctrine of equitable estoppel was not available to support an injunction restraining the supervisor of the Division of Liquor Control from enforcing Liquor Control Regulations 15(k) (prohibiting any licensee from allowing any sort of gambling upon licensed premises) and 25 II(c)(1)(g) (restricting advertisement of intoxicating liquor and nonintoxicating beer).

Op. Atty. Gen. No. 167, Moran (7-7-66). A licensee of the Department of Liquor Control is not violating the rules and regulations of the department by having on his/her licensed premises a pinball machine of the type designated by federal statute as a gambling device per se and requiring a \$250 Coin-Operated Gaming Device Stamp but on which the machine only awards free games for replay. It is a violation of regulation 15(1) (now covered by 11 CSR 70-2.140(12)) of the rules of the Department of Liquor Control if patrons using the pinball machines are actually paid off in money or merchandise by the liquor licensee or if patrons using the pinball machines actually wager money or property among themselves on the outcome of games played and the licensee allows such gambling.

11 CSR 70-2.150 Refunds

PURPOSE: This rule establishes procedures for refund of tax on intoxicating liquor and nonintoxicating beer.

(1) Every licensee who claims a refund for Missouri tax on intoxicating liquor or a refund for Missouri tax on malt liquor or nonintoxicating beer shall present claims to the supervisor of liquor control and shall attach to the claim a complete statement, under oath, as to the facts supporting the claim.

(2) After the claim is accepted for audit by the supervisor and the claimant has been notified of the acceptance, then an inspection shall be made by the supervisor or his/her agents. The agents shall make an affidavit that they inspected the intoxicating liquors, malt liquors or nonintoxicating beer denoting in the affidavit the brand, name and serial number of the containers or cases and the disposition to be made of the spirituous liquor, wine, malt liquor or nonintoxicating beer.

(3) The claims, when accepted by the supervisor for audit, shall be presented to the appropriations committee of the general assembly. The final approval of all the claims rests with the general assembly and the governor and the supervisor does not guarantee any payment on any claim.

(4) Under no circumstances shall refund claims be accepted by the supervisor if the sole reason for their presentation to him/her is because the claimant has purchased beyond his/her capacity to sell.

(5) The supervisor shall not accept claims for refunds for unused portions of permits.

(6) The supervisor reserves the right to refuse to accept for audit any or all claims presented.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973.*

*Original authority: 311.660, RSMo 1939, amended 1989.

11 CSR 70-2.160 Hearings to Suspend or Revoke Licenses

(Rescinded March 11, 1985)

AUTHORITY: section 311.660, RSMo 1978. Original rule filed Feb. 8, 1973, effective Feb. 18, 1973. Rescinded: Filed Dec. 4, 1984, effective March 11, 1985.

11 CSR 70-2.170 Warehouse Receipts for Storage of Intoxicating Liquor

PURPOSE: This rule defines warehouse receipts and establishes rules governing their use in business practices.

(1) Section 311.380, RSMo makes it a misdemeanor for any person to sell, offer for sale or give away any warehouse receipt(s) of intoxicating liquor without first securing the permission of the supervisor of liquor control to do so. The term warehouse receipt, as used



in section 311.380, RSMo, is defined to mean any warehouse receipt issued for the storage of intoxicating liquor which can be negotiated and any nonnegotiable warehouse receipt which can be assigned, transferred or sold.

(2) Any person, firm or corporation licensed by the supervisor of liquor control of Missouri to sell intoxicating liquor may pledge any warehouse receipt(s) owned by him/her to secure the payment of any debt to any firm, person or corporation in Missouri. Any Missouri state bank or trust company which is a member of the Federal Reserve System and any national bank with its principal office in Missouri may repledge with a federal reserve bank any warehouse receipts of which it is the pledgee.

(A) In case of default in the terms of the pledge agreement, the pledgee or the assignee of the pledge agreement may not negotiate, assign, transfer or sell any warehouse receipt(s) without first obtaining the permission of the supervisor of liquor control to do so.

(B) Request for permission shall be made by the pledgee to the supervisor of liquor control in writing and in the request the pledgee shall state the name of the proposed purchaser and shall state whether or not the proposed purchaser intends to take possession of the liquor under the receipt(s). Under no circumstances shall permission be given to the pledgee to sell any of the warehouse receipt(s) to any person, firm or corporation which intends to take possession of intoxicating liquor described in the receipt(s) unless the proposed purchaser is duly licensed as a wholesaler or manufacturer by the supervisor of liquor control in Missouri.

(C) The pledgee seeking the permission to sell the warehouse receipt(s) shall accompany the request by a photostatic copy of the pledge agreement and a photostatic copy of the warehouse receipt(s) which s/he desires to sell, together with an inventory of the liquor covered by the receipts, unless the inventory is contained in the receipts.

(3) Under no circumstances shall any person, firm or corporation licensed by the supervisor of liquor control import or cause to be imported or transport or cause to be transported into the state any intoxicating liquor which has been sold out of the state to satisfy the payment of any debt contracted outside of the state.

(4) No person, firm or corporation shall be granted permission to sell warehouse receipts and no licensee of the supervisor of liquor

control shall be given permission to purchase any warehouse receipt(s) unless the person, firm or corporation seeking permission, either to sell or to buy, shall agree as a condition precedent to the granting of any permission that s/he shall make regular monthly reports for each calendar month by the fifteenth of the following month in accordance with forms designated by the supervisor of liquor control and unless the reports are made, any permission given will be promptly revoked.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.180 Ceded Areas

PURPOSE: This rule exempts from tax and license fees in areas ceded to the federal government for military installations.

(1) Licenses are not required for the retail sale of intoxicating liquor and nonintoxicating beer for establishments located on lands within the state ceded to the federal government for military purposes and upon which military installations exist or for United States military federal instrumentalities.

(2) No excise nor inspection fees shall be imposed on any intoxicating liquor or nonintoxicating beer sold or offered for sale by establishments located on lands within the state ceded to the federal government and upon which military installations exist.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Dec. 14, 1987, effective March 11, 1988.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.190 Unlawful Discrimination and Price Scheduling

PURPOSE: This rule establishes procedures for price posting, deliveries, return of merchandise and discounts.

(1) Mechanized Product Price Register.

(A) The Mechanized Product Price Register is a system designed to accept pricing information from wholesalers in a machine readable format at various set times

of the month for varying processing cycles. Those transactions are processed into a master file of prices by brand and wholesaler number. Wholesaler transactions shall be submitted on either IBM eighty (80) column cards or a magnetic tape (nine (9) tract, sixteen hundred (1600) bits per inch) which are acceptable to the IBM/370 Mod 145 computer system or a computer system that the supervisor may order. A six (6)-digit brand number for all liquors and wines from the Universal Numeric Coding System for Alcoholic Beverages shall be used to identify all products posted in the Mechanized Product Price Register. Unique wholesaler numbers shall be assigned by the supervisor for individual identification in the register. The Mechanized Product Price Register or commonly known as Master Price Schedule, of all brands of intoxicating liquor and wine containing alcohol in excess of five percent (5%) by weight shall be maintained by the supervisor. This master file shall contain the following information by wholesalers: six (6)-digit brand number and check digit brand name, vendor number, class and type, age, proof and/or percent of alcoholic content by weight, bottle and case prices, discount code and wholesaler posting brand.

(B) The following reports from the Mechanized Product Price Register will be made available to all interested parties on a periodic basis:

1. Master Price Schedule. The master schedule provides a detailed listing of all prices charged for all items sold by each wholesaler;

2. Cumulative Change Report. The Cumulative Change Report lists all changes to the master file from the last master schedule printing to the present;

3. Change Report. The Change Report lists all changes to master schedules during a given change cycle;

4. Amendments Report. The Amendments Report lists all amendments to master schedule items during a given amendment cycle;

5. Wholesaler Transaction and Report. This report lists all transactions, by wholesaler, for a given processing cycle; and

6. Wholesaler/Vendor Report. This report lists by wholesaler, all vendors and corresponding brands sold by all wholesalers or by certain selected wholesalers, along with pricing information for each item.

(2) Pricing Rules to Prohibit Discrimination.



(A) Supplemental Posting. When a new product is added by a wholesaler, a supplemental posting must be made to the supervisor. New product prices must meet the following criteria:

1. All wholesalers posting prices for a new brand must first be authorized for that brand by the supervisor. A wholesaler may post his/her prices for a new product at any time during the month, after all brand registration requirements have been met. The supervisor will then issue a letter of approval on which the wholesaler will be required to post the following information: full brand name, vendor name and number, brand number and check digit, class and type, age, proof and/or percent of alcoholic content by weight, bottle price, case price, bottles per case. After the letter is returned to the supervisor by the wholesaler with this information it will be stamped APPROVED or DISAPPROVED and dated. Seven (7) days after this letter has been stamped APPROVED and dated by the supervisor, the product may be sold;

2. Any new items in the state, including new products, new sizes or new proofs being posted on supplemental schedules may be posted at any price the wholesaler desires. This category of new items must be posted within the same calendar month. However, a new item on a supplemental schedule that previously has been posted by another wholesaler may not be posted at a price lower than the price currently established by schedules in effect; and

3. The price posted in the supplemental schedule shall remain in effect and shall not be subject to change before the first of the month when a regularly filed schedule shall become effective.

(B) Monthly Price Changes.

1. All wholesalers shall file their monthly price changes in machine readable form with the supervisor or in a form s/he designates on or before the tenth calendar day of each month unless otherwise ordered by him/her. When the tenth day of the month falls on a Sunday or legal holiday, the schedule shall be filed on the next regular business day. These price changes shall be coded to designate that they are changes to existing prices on the master file. In addition, wholesalers may file prices for new products and new sizes which will be coded to designate that they are additions to the master file. Where an item previously has been posted by another wholesaler, a wholesaler may not post a price lower than the price currently established by schedules in effect.

(C) Amendments.

1. Within three (3) days, excluding Sundays and holidays and on a date to be fixed by the supervisor when s/he makes available for inspection the Master Price Schedule or the Cumulative Change Report, a wholesaler may amend his/her filed schedule for sales to a retailer or purchase for a retailer or by a retailer through a wholesaler, in order to meet lower competing prices and discounts for intoxicating liquor or wine of the same brand, trade name, age and proof.

2. All price changes must be only downward. No price changes shall be made upward in amendment processing. Any transaction attempting to lower a price below the lowest scheduled price will be flagged as an error and will be totally rejected.

(D) Discounts.

1. The granting of any discount is optional with the seller, but when given must not exceed one (1) per centum for quantity of liquor and wine and one (1) per centum for payment on or before a certain date.

2. Quantity discounts. A quantity discount may be granted only for quantities of two (2) or more. If a price is listed for bottles only, then a quantity discount may be allowed on quantities of two (2) or more bottles. If a price is listed for both bottles and cases, then a quantity discount may be allowed only on quantities of two (2) or more unbroken cases. Quantity discounts may be graduated but may not exceed the maximum one percent (1%).

3. Discounts for time of payment. A discount for time of payment may be granted only for 1) payment for time of delivery, 2) payment on or before ten (10) days from the date of delivery or 3) payment on or before fifteen (15) days from the date of delivery. Only one (1) discount may be granted during any one (1) month, except that a wholesaler may amend his/her schedule to meet competing discounts for time of payment.

4. The combination of discounts which shall be posted on the Mechanized Price Register are as follows: No discount, one percent (1%) for time of payment, one percent (1%) for quantity discounts, one percent (1%) for time of payment and one percent (1%) for quantity.

5. No person licensed to sell intoxicating liquor and wine at retail may accept any discount, rebate, free goods, allowances or other inducement from any wholesalers except the discount for payment and quantity discount on or before a certain date.

(E) Case Size. For the purpose of this regulation, a case of intoxicating liquor or a case of wine is declared to be a cardboard, wooden or other container, containing bottles of equal size filled with intoxicating liquor or wine of the same brand, age and proof. The

following table depicts the number of bottles considered to be a case of various bottle sizes for both the English and metric systems of measure, for price scheduling purposes:

Size of Bottle	Number of Bottles per Case
Less than 6.3 oz	48, 60, 96, 120, 144, 192 or 240
8 oz up to, but not including, 10 oz	48
10 oz up to, but not including, 21 oz	24
21 oz up to, but not including, 43 oz	12
43 oz up to, but not including, 85 oz	6
85 oz up to and including 128 oz	3, 4 or 6

1. The Universal Coding of Alcoholic Beverages for Products by container size shall be used to code the bottle size. An item is declared to be either a bottle or a case of intoxicating liquor or wine scheduled as required.

2. All sizes less than one-half (1/2) pint or eight (8) ounces under the English system of measure shall be defined as miniatures to be sold to airlines and railroads. Under the metric system of measure, miniatures to be sold to airlines and railroads are defined as fifty (50) milliliters (1.7 ounces) for spirituous liquors and one hundred (100) milliliters (3.4 ounces) for vinous liquors. Case sizes for miniatures shall be 240, 192, 144, 120, 96, 60 and 48 bottles. Miniatures shall be sold in only one (1) case size for each bottle size sold.

3. If an intoxicating liquor or wine product is packaged by the manufacturer in a bottle quantity for that bottle size exceeding one but either more or less than the case quantity for the bottle size listed in subsection (2)(E), a wholesaler may sell that package for a total price that reflects the same per bottle price as the per bottle price in the posted case price, if the wholesaler's invoice specifies the quantity in the package.

(F) The price to retailers, except retailers operating railroad cars, shall include federal custom duties, internal revenue taxes, state excise tax, bottling and handling charges and the cost of delivery to the retailer. The price to retailers operating railroad cars may be scheduled at a price "ex state excise tax," but shall include all other taxes and costs computed in prices to other retailers. No charge(s) shall be made in addition to the price except that on past due accounts there may be imposed a finance (interest) charge in accord with that permitted by law. Provided, however, that if a wholesaler elects to impose a finance (interest) charge on past due account the charge shall be of uniform rate to all retailers and shall be imposed on all retailers who have past due accounts.



(G) Delivery. Any brand of liquor or wine sold to a retailer must be shipped to and received by the retailer in the amount for which the scheduled price set forth on the invoice is in effect. No wholesaler may take an order for delivery in a subsequent month, except that on and after the date on which amended schedules are filed, orders may be taken for delivery in the following month at the price in effect for that month. Orders may not be shipped before the first day of the following month.

(H) Returns. Merchandise returns exceeding seven (7) days from delivery date shall not be accepted for return from a retailer, except pursuant to a court order or with prior approval from the supervisor for any of the following reasons:

1. The merchandise delivered does not conform to the merchandise ordered, whether an error was made at the time the order was taken or when the merchandise was delivered. Requests to return merchandise delivered in error must be submitted to the supervisor within thirty (30) days of the original invoice; or

2. The retailer is abandoning the retail liquor business.

(I) Breakage, Samples, Expenses. As part of its regular books and records, each wholesaler licensed to sell intoxicating liquor or wine shall keep a monthly record of all allowances for breakage containing the name, address and license number of the customer, the amount of breakage allowance, the date and number of the invoice of sale and the federal strip stamp numbers of each broken bottle for which allowance is given. No allowance for breakage shall be given unless the broken bottle is returned to the seller within seventy-two (72) hours after delivery and where the container is required to have a federal strip stamp affixed to the container, the stamp must be intact at the time of return. Broken bottles shall be kept available on the wholesaler's licensed premises for inspection by representatives of the supervisor and may not be removed from the licensed premises or destroyed without permission from the supervisor.

(J) Posting of Contraband Liquors and Wines Purchased From Supervisor. Bottles or cases of liquor or wine as described in subsection (2)(E) which have been declared contraband and purchased by a wholesaler from the supervisor or the officer who seized the same under the provisions of sections 311.820 and 311.840, RSMo or by a wholesaler from a wholesaler who so purchased the same, may be scheduled by the wholesaler at prices less than other liquors and wines of the same brand, age and proof. When the liquors

and wines are so scheduled, the schedule shall be accompanied by a writing on which the liquors and wines are exactly described and the quantity(ies) available for purchase set forth and upon sale of all or any part of the quantity a copy of the invoice shall be sent to the supervisor upon the day it is prepared. Only liquors and wines so purchased by a wholesaler may be sold at the posted prices.

(K) Discriminatory Agreements.

1. No person holding a license as a manufacturer-solicitor or out-state solicitor of spirituous liquor or wine shall enter into or participate in any combination or agreement with any person holding a license as a wholesaler or wholesale-solicitor for the sale of spirituous liquor or wine which restrict the customers to whom the wholesaler or wholesale-solicitor may sell merchandise which s/he owns.

2. No person holding a license as the wholesaler or wholesale-solicitor for the sale of spirituous liquor or wine shall enter into or participate in any combination or agreement with any person holding a license as a manufacturer-solicitor or outstate solicitor of spirituous liquor or wine, which restricts the customers to whom the wholesaler or wholesale-solicitor may sell merchandise which s/he owns.

(L) Universal Numeric Codes on Invoices.

1. The Universal Numeric Code for Alcoholic Beverages shall be used to code all liquors and Missouri's six (6)-digit wine code shall be used to code all wines on all invoices written by any manufacturer, vintner, solicitor and/or wholesaler licensed by the Division of Liquor Control of Missouri; this shall include invoices written by wholesalers to retail licensee. The brand number to be used concurrent with other descriptive data by Missouri licensed manufacturers, vintners and solicitors is the six (6)-digit number developed by the Distilled Spirits Council of the United States, Inc. and Missouri's six (6)-digit wine code. In addition, the descriptive data for liquors and wines shall include the age or vintage, proof or percent of alcohol by weight, class and type and brand name. Missouri wholesalers shall include brand name, age and proof for spirituous liquors and vintage for wines on all invoices to retailers when the vintage creates a cost differential for the same type of wine. Any failure of any person, firm or corporation licensed under any provisions of Chapters 311 and 312, RSMo to comply in all respects with the rules and any violation by any licensee of these rules shall be deemed to be cause for the revocation or suspension of the license of the offending licensee.

AUTHORITY: section 311.660, RSMo 1994. This version of rule filed Dec. 22, 1975, effective Jan. 1, 1976. Amended: Filed Sept. 30, 1976, effective April 15, 1977. Amended: Filed Jan. 26, 1977, effective July 11, 1977. Amended: Filed Sept. 1, 1977, effective Dec. 11, 1977. Amended: Filed Dec. 6, 1985, effective Feb. 24, 1986. Amended: Filed April 20, 1987, effective July 11, 1987. Amended: Filed Aug. 17, 1999, effective March 30, 2000.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.200 Salesmen

PURPOSE: This rule defines a salesman, establishes procedures for obtaining permit, sets out rules of conduct and provides penalties for failure to comply with those rules.

(1) A salesman of a licensed manufacturer or licensed solicitor shall mean and include any person including the owner, partner, officer, director, employee, agent or representative of a manufacturer or solicitor, who procures or seeks to procure an order, bargain, contract or agreement for the sale of intoxicating liquor containing alcohol in excess of five percent (5%) by weight by a licensed manufacturer (distiller or wine maker) or solicitor to a licensed wholesaler, or who is engaged in promoting the sale of intoxicating liquor to licensed wholesalers or in promoting the business of any person, firm or corporation engaged in manufacturing, selling or both of the intoxicating liquor to licensed wholesalers, whether the manufacturer or seller resides within the state and sells to licensed wholesalers within the state or whether the seller resides without the state and sells to licensed wholesalers within the state.

(2) A salesman of a licensed wholesaler shall mean and include any person, including the owner, partner, officer, director, employee, agent or representative of a wholesaler, who procures or seeks to procure an order, bargain, contract or agreement for the sale of intoxicating liquor containing alcohol in excess of five percent (5%) by weight by a licensed wholesaler to a licensed retailer or who is engaged in promoting the sale of intoxicating liquor to licensed retailers or in promoting the business of any licensed wholesaler.

(3) No person shall act as a salesman as defined in this rule for a manufacturer, solicitor or wholesaler within the state after February 18, 1973 unless the person first



shall have applied for and received a permit from the supervisor of liquor control.

(4) Any adult person, except the holder of a retail license, his/her or its employees or agents, may make application to the supervisor of liquor control for a salesman's permit, which application shall be in a form and shall include terms as the supervisor of liquor control may prescribe. The application shall set forth the name and address of the person, firm or corporation who employs the applicant or whom the applicant represents and also the name and address of the applicant. The applicant shall not be employed by or represent any person, firm or corporation whose name does not appear on the application as his/her employer or principal. Upon approval of any application, the supervisor shall issue a permit to the applicant, which permit shall not expire but shall remain active until surrendered, suspended or revoked.

(5) The supervisor of liquor control from time-to-time or at any time, on reasonable notice, may require the principal or employer of any salesman holding a permit to inform the supervisor of liquor control in writing under oath as to the terms of the salesman's representation or employment, including his/her compensation, remuneration, expense account payments. No manufacturer, solicitor or wholesaler shall pay directly or indirectly any commission, remuneration, expense account or other thing of value to any person for activities as a salesman as defined in this rule unless the salesman holds a permit and unless the manufacturer, solicitor or wholesaler is specified on the salesman's application as the employer or principal of the salesman.

(6) All salesmen shall exhibit their permits at any time while engaged in soliciting or taking orders for or promoting the sale of intoxicating liquor upon demand of any agent or employee of the Division of Liquor Control, of any duly constituted peace officer or upon request of any licensee.

(7) No licensee shall purchase intoxicating liquor from or give an order to any person who is not the holder of a permit duly issued.

(8) If a salesman shall leave the employ of the employer or principal specified on his/her application, s/he immediately shall notify the supervisor and surrender his/her permit within five (5) days. Failure to surrender the permit within the five (5) days shall make the salesman ineligible for any other permit for a period of two (2) years. It also shall be the duty of the employer or principal whose

name is specified on the salesman's application to notify the supervisor within five (5) days of the termination of the salesman's employment or representation.

(9) If the holder of a salesman's permit changes his/her address from that noted on his/her application, s/he shall notify the supervisor of the change of address within five (5) days. Failure to so notify the supervisor of a change of address shall make the salesman's permit subject to revocation.

(10) If the holder of a salesman's permit shall violate the provisions of the Liquor Control Law or any of the corresponding rules, the supervisor may suspend or revoke the permit issued to the salesman and, in addition to suspension or revocation, may suspend or revoke the license of the employer or principal of the salesman.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.210 Samples (Rescinded May 30, 1997)

AUTHORITY: section 311.660, RSMo 1994. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Jan. 22, 1996, effective July 30, 1996. Rescinded: Filed Nov. 21, 1996, effective May 30, 1997.

11 CSR 70-2.220 Prohibiting Manufacturers and Solicitors of Intoxicating Liquor and Licensed Retailers From Contacting Each Other for Business Purposes

PURPOSE: This rule prohibits contact between manufacturers or solicitors and retail licensees who are licensed to sell intoxicating liquor in excess of five percent by weight.

(1) No person licensed as a manufacturer (distiller or wine maker) or solicitor of intoxicating liquor containing alcohol in excess of five percent (5%) by weight, or any of his/her or its officers, directors, employees, agents or representatives shall—

(A) Solicit or take orders for this intoxicating liquor from a licensed retailer;

(B) Call upon, contact or meet with a licensed retailer or his/her or its employees or agents for any purpose in any way connected with or related to intoxicating liquor

by any means or at any place; except to promote or advertise the manufacturer's line of products; or

(C) Have called upon, contacted or met with a licensed retailer or his/her or its employees or agents for another purpose, engage in any activity prohibited by subsections (1)(A) and (B).

(2) No person licensed as a retailer of intoxicating liquor containing alcohol in excess of five percent (5%) by weight, or any of his/her or its employees or agents, shall—

(A) Offer or give an order for such intoxicating liquor to a person licensed as a manufacturer (distiller or wine maker) or solicitor of intoxicating liquor containing alcohol in excess of five percent (5%) by weight, or any of his/her or its officers, directors, employees, agents or representatives;

(B) Call upon, contact or meet at places other than the retailer's place of business with the manufacturers or solicitors or any of his/her or its officers, directors, employees, agents or representatives for any purpose in any way connected with or related to intoxicating liquor by any means or at any place; or

(C) Have called upon, contacted or met with the manufacturer or any of his/her or its officers, directors, employees, agents or representatives for any other purpose or engage in any activity prohibited by subsections (2)(A) and (B).

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.230 Multiple Store Retailers

PURPOSE: This rule establishes procedure for storage and transfer from a central warehouse by multiple licensed intoxicating liquor licensees.

(1) This regulation applies to all persons, firms or corporations who own and operate more than one (1) premises licensed to sell intoxicating liquor containing alcohol in excess of five percent (5%) by weight at retail.

(2) Any person, firm or corporation defined in section (1), with the permission of the supervisor of liquor control, may designate one (1) or more places as a central warehouse to which intoxicating liquors ordered and purchased by a person, firm or corporation from licensed wholesalers may be delivered



by licensed wholesalers and at which intoxicating liquors so owned by a person, firm or corporation may be stored.

(3) Any person, firm or corporation defined in section (1) owning and storing intoxicating liquors in a central warehouse as provided in section (1) may transfer all or any part of the intoxicating liquors so stored from the central warehouse to any premises licensed to sell intoxicating liquors at retail which is owned and operated by the same person, firm or corporation and which is located in the same county in which the central warehouse is located, or is located in a county adjoining and contiguous to the county in which the central warehouse is located, but not otherwise; except that private brands of intoxicating liquor owned and sold exclusively by only one (1) person, firm or corporation as set forth in section (1) and brands not privately owned but sold exclusively by only one (1) person, firm or corporation may be transferred from the warehouse to any licensed premises in the state owned by a person, firm or corporation, who is the exclusive retail dealer of the brand; provided, however, that no malt liquor shall be transferred from the central warehouse to another licensed premises unless the licensed premises is located in the same designated geographic area of the wholesaler from whom the malt liquor was purchased. The City of St. Louis shall be deemed to be a county for the purposes of this regulation.

(4) Any person, firm or corporation defined in section (1) desiring to transfer intoxicating liquor from a premises licensed to sell intoxicating liquors at retail owned and controlled by a person, firm or corporation to another premises so licensed and owned and controlled by the same person, firm or corporation, shall first notify the supervisor of liquor control in writing describing the type, brand, size containers and amount of intoxicating liquors to be so transferred, the license numbers of the premises from which and to which the transfer is to be made, and the true reason for the transfer and shall not make the transfer until the supervisor of liquor control shall have assented to the transfer or until three (3) full days (not counting Saturdays, Sundays and holidays) shall have elapsed after the receipt of the notice by the supervisor of liquor control during which time the supervisor of liquor control shall not have refused to allow transfer.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8,*

1973, effective Feb. 18, 1973. Amended: Filed May 15, 1987, effective Aug. 13, 1987.

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.240 Advertising of Intoxicating Liquor and Nonintoxicating Beer

PURPOSE: This rule allows manufacturers of intoxicating liquor to offer consumer rebate coupons and clarifies the advertising regulation as it applies to the advertising of sales price below cost.

(1) No person engaged in business as a producer, manufacturer, brewer, bottler, importer, wholesaler or retailer of intoxicating liquor or nonintoxicating beer, directly or indirectly, shall publish or disseminate or cause to be published or disseminated in any newspaper, magazine or similar publication any advertisement of intoxicating liquor or nonintoxicating beer, unless the advertisement is in conformity with the regulations.

(A) These provisions shall not apply to the publisher of any newspaper, magazine or similar publication, unless the publisher is engaged in business as a producer, manufacturer, brewer, bottler, importer, wholesaler or retailer of intoxicating liquor or nonintoxicating beer, directly or indirectly.

(2) The term advertisement includes any advertisement through the media of radio, television, motion pictures, newspapers, magazines or similar publications or any sign or outdoor billboard or other printed or graphic matter, except that the term shall not include:

(A) Any label affixed to any container of intoxicating liquor or nonintoxicating beer or any individual covering, carton or other wrapper of a container; and

(B) Any editorial or other reading matter in any periodical or publication or newspaper for the preparation or publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any person subject to these regulations.

(3) Mandatory Statements.

(A) The advertiser shall state the name and address of the producer, manufacturer, bottler, brewer, importer, wholesaler or retailer responsible for its publication.

(B) The advertisement shall contain a conspicuous statement of the class and type or other designation of the product, corresponding with the complete designation which appears on the brand label of the product.

(C) The alcoholic content shall be stated in the manner and form in which it appears on the labels of intoxicating liquor or nonintoxicating beer advertised.

(D) In the case of distilled spirits (other than cordials, liqueurs and specialties) produced by blending or rectification, if neutral spirits have been used in the production of distilled spirits, there shall be stated in the advertisement the percentage of neutral spirits so used and the name of the commodity from which the neutral spirits have been distilled in substantially the manner and form in which these statements appear on the labels of the distilled spirits advertised. In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated in the advertisement the name of the commodity from which the neutral spirits or gin have been distilled substantially in the manner and form in which this statement appears on the labels of the distilled spirits advertised.

(E) Where an advertisement does not mention a specific product but merely refers to a class of intoxicating liquor or nonintoxicating beer (such as whiskey or beer) and the advertiser markets more than one (1) brand of intoxicating liquor or nonintoxicating beer of that class, or where the advertisement refers to several classes of intoxicating liquor or nonintoxicating beer (such as whiskey, brandy, rum, gin, liqueur, wine, beer, etc.) marketed under a single brand, the only mandatory information prescribed by section (1) applicable to advertisement would be the name and address of the responsible advertiser.

(F) Advertisements by retail establishments which merely refer to the availability of intoxicating liquor or nonintoxicating beer in these establishments, but which otherwise make no reference to a specific brand of intoxicating liquor or nonintoxicating beer shall be subject only to the prohibited statements provisions of section (5) of this rule.

(4) Statements required by these regulations to be stated in any written, printed or graphic advertisement shall appear in lettering or type of a size, kind and color sufficient to render them both conspicuous and readily legible. In particular—

(A) Required information shall be stated against a contrasting background and in type or lettering which is at least the equivalent of eight (8)-point type;

(B) Required information shall be so stated as to appear to be a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement;



(C) Where an advertisement relates to more than one (1) product, the required information shall appear in a manner as to clearly indicate the particular products to which it is applicable; and

(D) Required information shall not be buried or concealed in unrequired descriptive matter or decorative designs.

(5) No advertisement of intoxicating liquor or nonintoxicating beer shall contain:

(A) Any statement that is false or misleading in any material particular;

(B) Any statement that is disparaging of a competitor's products;

(C) Any statement, design, device or representation which is obscene, indecent, in poor taste or conveys a derogatory connotation;

(D) Any statement design, device or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer;

(E) Any statement, design, device or representation of or relating to any guarantee, irrespective of falsity, which is likely to mislead the consumer. Nothing in this subsection shall prohibit the use of any enforceable guarantee in substantially the following form: "We will refund the purchase price to the purchaser if s/he is in any manner dissatisfied with the contents of this package";

(F) Any statement that the product is produced, blended, brewed, made, bottled, packaged, sold under or in accordance with any authorization, law or regulation of any municipality, county, state, federal or foreign government unless the statement is required or specifically authorized by the laws or regulations of the government; and, if a municipality, county, state or federal permit number is stated, the permit number shall not be accompanied by an additional statement relating to it;

(G) Any statement offering any coupon, premium, prize, rebate, sales price below cost or discount as an inducement to purchase intoxicating liquor or nonintoxicating beer except, manufacturers of intoxicating liquor other than beer or wine shall be permitted to offer and advertise consumer cash rebate coupons and all manufacturers of intoxicating liquor may offer and advertise coupons for nonalcoholic merchandise in accordance with section 311.355, RSMo;

(H) Any statement offering free delivery or credit terms to consumers, as an inducement to purchase intoxicating liquor or nonintoxicating beer; and

(I) A price that is below the retailer's actual cost.

(6) The advertisement shall not contain any statement concerning a brand or lot of intoxicating liquor or nonintoxicating beer that is inconsistent with any statement on the labeling.

(7) The advertising shall not contain any statement, design or device representing that the use of any intoxicating liquor or nonintoxicating beer has curative or therapeutic effects or tending to create an impression that it does have curative or therapeutic effects.

(8) No advertisement shall contain any statement, design, device or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States or of the American flag, any state flag, or of any emblem, seal, insignia or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement device, design or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made or used by or produced for or under the supervision of or in accordance with the specifications of the government, organization, family or individual with whom the flag, seal, coat of arms, crest or insignia is associated.

(9) An advertisement for distilled spirits shall not contain:

(A) The words bond, bottled in bond, aged in bond, or phrases containing these or synonymous terms, unless these words or phrases appear upon the labels of the distilled spirits advertised and are stated in the advertisement in the manner and form in which they appear upon the label;

(B) Any statement, design or device, directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement of age appears on the labels of the advertised product. When any statement, design or device concerning age or maturity is contained in any advertisement, it shall include (in direct conjunction with the advertisement and with substantially equal conspicuousness) all parts of the statement concerning age and percentages, if any, which appear on the label. However, an advertisement for any whiskey or brandy, which does not bear a statement of age on the label or an advertisement for rum which is four (4) years or more old, may contain general inconspicuous age, maturity or other similar representations, for example aged in wood, mellowed in fine oak cask; and

(C) A representation that intoxicating liquor or nonintoxicating beer was manufactured in or imported from a place or country other than of its actual origin or was produced or processed by one who was not in fact the actual producer or processor.

(10) An advertisement for wine shall not contain:

(A) Any statement of bonded winecellar or bonded winery numbers unless stated in direct conjunction with the name and address of the person operating the winery or store-room. Statement of bonded winecellar and bonded winery numbers may be made in the following form: "Bonded Winecellar No. . . .," "Bonded Winery No. . . .," "B.W.C. No. . . .," or "B.W. No. . . .," No additional reference to numbers shall be made, nor shall any use be made of a statement that may convey the impression that the wine has been made or matured under United States government or any state government supervision or in accordance with United States government or any state government specifications or standards.

(B) Any statement, design, device or representation which relates to alcoholic content or which tends to create the impression that a wine is unfortified or has been fortified or has intoxicating qualities or contains distilled spirits except for a reference to distilled spirits in a statement of composition where the statement is required by these regulations to appear as a part of the designation of the product.

(11) No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except that—

(A) In the case of vintage wine, the year of vintage may be stated if it appears on the label; and

(B) Truthful references of a general and informative nature relating to methods of production involving storage or aging, for example "This wine has been mellowed in oak casks," "Stored in small barrels" or "Matured at regulated temperatures in our cellars," may be made.

(12) The statement of any bottling date shall not be deemed to be a representation relative to age, if the statement appears without undue emphasis in the following form: "bottled in . . .," (inserting the year in which the wine was bottled).

(13) No date, except as provided in this section and section (12) of this rule with respect to statement of vintage year and bottling date, shall be stated unless, in addition to the year



and date, and direct conjunction with the year and date, in the same size and kind of printing there shall be stated an explanation of the significance of the date. If any date refers to the date of establishment of any business, this date shall be stated without undue emphasis and in direct conjunction with the name of the person to whom it refers.

(14) The advertisement shall not represent that the wine was manufactured in, or imported from, a place or country other than that of the actual origin or produced or processed by one who was not in fact the actual producer or processor.

(15) No retail licensee shall advertise for sale any brand of intoxicating liquor or nonintoxicating beer unless s/he has the particular brand and size of container or package of intoxicating liquor or nonintoxicating beer in his/her licensed premises for sale.

(16) No wholesale licensee shall allow any sign owned by him/her or advertising his/her product to be placed or allowed to remain on or upon any building unless the building has an occupant holding a license issued by the supervisor.

(17) No wholesale or retail licensee shall use any loudspeaker or public address system to advertise intoxicating liquor or nonintoxicating beer.

(18) No producer, manufacturer, brewer, bottler, importer or wholesaler of intoxicating liquor or nonintoxicating beer shall advertise the retail price or suggested retail price of intoxicating liquor or nonintoxicating beer.

AUTHORITY: section 311.660, RSMo 1994. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Dec. 12, 1986, effective Feb. 28, 1987. Amended: Filed Jan. 22, 1996, effective July 30, 1996. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

State ex rel. Letz v. Riley, 559 SW2d 631 (Mo. App. 1977). Despite the issuance by the attorney general of a "no action" letter stating that certain games in theory were not violative of Chapter 563, RSMo, the doctrine of equitable estoppel was not available to support an injunction restraining the supervisor of the Division of Liquor Control from enforcing Liquor Control Regulation 15(k) (prohibiting any licensee from allowing any sort of gambling upon licensed premises) and

25II(c)(1)(g) (restricting advertisement of intoxicating liquor and nonintoxicating beer).

Milgram Food Stores, Inc. v. Ketchum, 384 SW2d 510, (Mo. App. 1965) cert. denied, 382 U.S. 801. Regulation 15(f)(5) (now covered by 11 CSR 70-2.240(2) and (5)(G) and (H)) prohibiting the advertisement of intoxicating liquor which offers any coupon, premium, prize, rebate as an inducement to purchase such intoxicating liquor, did have a reasonable relation to and in accord with the provisions and purposes of the Liquor Control Law; and that rule is not unreasonable, arbitrary and capricious as claimed by the respondent, as to "free" Santa Claus covers offered in advertisement with purchase of certain liquors, this fell within prohibited practices and suspension of respondent's license for twenty-five (25) days was not unreasonable.

11 CSR 70-2.250 Salvaged Alcoholic Beverages

PURPOSE: This rule establishes licensing and procedure for disposal of salvaged alcoholic beverages.

(1) Alcoholic beverages which are damaged in this state as a result of flood, wreck, fire or similar occurrence may be sold for salvage.

(2) Alcoholic beverages so salvaged may be sold to a Missouri licensee, upon the approval of the supervisor under the following terms and conditions:

(A) Application shall be made to the supervisor for authority to sell distressed merchandise in Missouri. The application shall contain the name of the person desiring to sell the merchandise, the nature of the damage, a description of the merchandise and whether the contemplated sale is to be to a Missouri licensee;

(B) The distressed merchandise shall be examined at the scene of the occurrence, as soon as practicable, by a representative of the Department of Health and the sale shall not be approved by the supervisor until notified by the representative that the merchandise is fit for human consumption;

(C) Written approval and release for the sale of distressed merchandise shall not be issued until an inspection of the distressed merchandise is made by an agent of the Division of Liquor Control who will determine whether the merchandise is within the meaning of this regulation and that all Missouri taxes have been paid;

(D) No merchandise shall be sold under this regulation where the original packages have been so damaged so as to render the label on the package not within the requirements under 11 CSR 70-2.060(1); and

(E) Anyone seeking to sell distressed merchandise shall obtain a permit from the supervisor.

(3) Alcoholic beverages so salvaged shall be referred to as distressed merchandise.

(A) Each container of alcoholic beverage sold pursuant to this regulation shall bear a label, to be provided by the Division of Liquor Control, certifying the merchandise as distressed merchandise.

(B) No distressed merchandise salvaged outside of the state may be imported into Missouri for sale pursuant to this regulation.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973.*

**Original authority: 311.660, RSMo 1939, amended 1989.*

11 CSR 70-2.260 State of Emergency

PURPOSE: This rule establishes authority for the supervisor of liquor control when a state of emergency is declared.

(1) Whenever, pursuant to the Constitution and laws of Missouri, the governor or acting governor of this state shall declare a state of emergency, call out the organized militia or any portion or individual of the militia to execute or insure obedience to law or declare a state of martial law in any section of this state, all persons, partnerships, associations of persons or corporations licensed under the laws of Missouri to sell, dispense or otherwise deal with intoxicating liquor or nonintoxicating beer, upon notice from the supervisor of liquor control, announced publicly or delivered personally, shall be required to suspend further business under the licenses issued to the persons, partnerships, association of persons or corporations until the time as the supervisor shall determine and so inform the licensees that the proclamation of emergency or crisis as issued by the governor or acting governor has been terminated, provided that the supervisor of liquor control shall specify the geographical limit within the state within which area the licenses shall be suspended.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973.*



*Original authority: 311.660, RSMo 1939, amended 1989.

11 CSR 70-2.270 Transfer and Registration of Lines or Brands of Spirituous Liquor and Wine

PURPOSE: This rule provides procedures for a supplier of spirituous liquor and wine to remove and/or create any additional distributor or any line or brand of product.

(1) The term supplier, as used in this regulation, shall mean any person, partnership, corporation or other form of business enterprise licensed as a manufacturer, distiller, vintner, rectifier, solicitor (or any employee or agent of the solicitor) which distributes wine or intoxicating liquor containing alcohol in excess of five percent (5%) by weight to duly licensed wholesalers in this state.

(2) The term wholesaler, as used in this regulation, shall mean any person, partnership, corporation or other form of business enterprise (or any employee or agent of the enterprise) licensed to sell wine or intoxicating liquor containing alcohol in excess of five percent (5%) by weight to duly licensed retailers in this state.

(3) No supplier shall encourage, solicit, cause or conspire with a wholesaler to evade or disobey any laws or regulations of the state of Missouri relating to intoxicating liquor. No supplier, directly or indirectly, shall threaten to remove or remove a line or brand from a wholesaler because of the refusal or failure of the wholesaler to evade or disobey any laws or regulations of Missouri relating to intoxicating liquor. Nor shall any supplier, directly or indirectly, threaten to or create an additional distributorship in retaliation against a wholesaler who refuses to evade or disobey any laws or regulations of Missouri relating to intoxicating liquor.

(4) All wholesalers shall register with the supervisor of liquor control, the lines, brands or both of alcoholic beverages which they handle and distribute in this state. No wholesaler shall add an additional line or brand without first filing a statement under oath with the supervisor and with every other wholesaler affected. The statement shall contain the following:

(A) The name of each line or brand of intoxicating liquor or wine which they will handle and distribute in this state and the anticipated date upon which the distribution of the line or brand is to begin;

(B) A certification that this additional line or brand is not being added in collusion with any supplier in retaliation against another

wholesaler who refuses to evade or disobey any laws or regulations of Missouri relating to intoxicating liquor; and

(C) Prior to making any sale of any additional distributorship on a line or brand, each wholesaler shall comply with all other requirements relating to the posting of wholesale prices.

(5) Prior to removing a line or brand from one (1) wholesaler and/or prior to creating an additional distributorship on a line or brand, every supplier shall file with the supervisor a statement under oath containing the following:

(A) The name and address of each wholesaler to whom a line, brand or both is being transferred or added;

(B) The name and address of each wholesaler from whom a line or brand is being removed;

(C) The name of each line or brand to be removed transferred or added; and

(D) A certification that this removal, transfer or creation of an additional distributorship is not in retaliation against any wholesaler who refuses to evade or disobey any existing laws or regulations of Missouri relating to intoxicating liquor.

(6) A copy of this statement shall at the same time be delivered by mail or personal service to every wholesaler affected.

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed April 16, 1975, effective April 26, 1975.*

*Original authority: 311.660, RSMo 1939, amended 1989.

Brown-Forman Distillers Corp. v. Stewart, 520 SW2d 1 (Mo. banc 1975). Regulation 28, permitting supervisor of liquor control to prohibit the transfer of a brand or the creation of a dual distributorship absent the showing of a good business reason, ("without reasonable cause, which cause must be submitted to the supervisor of liquor control in writing") the employment of "reasonable cause" in regulation 28 renders it invalid and void because the language used is so sweeping and broad that it clothes the supervisor with arbitrary power that is incompatible with the test of "reasonableness" and it is "inconsistent" with the objectives of the Liquor Control Law and the legitimate evils sought to be eliminated.

11 CSR 70-2.280 Guidelines for Using Minors in Intoxicating Liquor or Nonintoxicating Beer Investigations

PURPOSE: This rule establishes guidelines for the use of minors in intoxicating liquor or

nonintoxicating beer investigations by a state, county, municipal or other local law enforcement authority.

(1) The following shall constitute guidelines for the use of minors in intoxicating liquor or nonintoxicating beer investigations by a state, county, municipal or other local law enforcement authority:

(A) The minor shall be eighteen (18) or nineteen (19) years of age;

(B) The minor shall have a youthful appearance and the minor, if a male, shall not have facial hair or a receding hairline; if a female, shall not wear excessive makeup or excessive jewelry. The minor, male or female, shall not wear headgear that will obstruct a clear view of the face or hairline;

(C) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the intoxicating liquor or nonintoxicating beer at the licensed establishment; and the state, county, municipal or other local law enforcement agency shall search the minor prior to the operation to ensure that the minor is not in possession of any other valid or fictitious identification;

(D) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of intoxicating liquor or nonintoxicating beer;

(E) The state, county, municipal or other local law enforcement agency shall make a photocopy of the minor's valid identification showing the minor's correct date of birth;

(F) Any attempt by such minor to purchase intoxicating liquor or nonintoxicating beer products shall be videotaped or audiotaped with equipment sufficient to record all statements made by the minor and the seller of the intoxicating liquor or nonintoxicating beer product;

(G) The minor shall not be employed by the state, county, municipal or other local law enforcement agency on an incentive or quota basis;

(H) If a violation occurs, the state, county, municipal or other local law enforcement agency shall, within two (2) hours, make reasonable efforts to confront the seller, if practical, and further, within forty-eight (48) hours, contact or take all reasonable steps to contact the owner or manager of the establishment;

(I) The state, county, municipal or other local law enforcement agency shall maintain records of each visit to an establishment where a minor is used by the state, county, municipal or other local law enforcement agency for a period of at least one (1) year



following the incident, regardless of whether a violation occurs at each visit, and such records shall, at a minimum, include the following information:

1. A photograph of the minor taken immediately prior to the operation;
2. A photocopy of the minor's valid identification, showing the minor's correct date of birth;
3. An Information and Consent document, included herein, completed by the minor in advance of the operation in the following form:

Minor Information and Consent

State of Missouri)
COUNTY of _____)

Before me, the undersigned authority, on this _____ day of _____, 20____, personally appeared _____, who by me is known and who after being by me first duly sworn did depose and state:

1. I am _____, a minor, and was born on the _____ day of _____, 19____. My address is _____.
My driver's license number is _____ in the State of _____.
My Social Security number is _____.
My parents'/legal guardians' names are _____.
My home telephone number is _____.

2. I do hereby agree to assist the _____ in the investigation of offenses involving the unlawful sale of intoxicating liquor or nonintoxicating beer products in this state. I understand that I will be entering locations, in which intoxicating liquor or nonintoxicating beer products are sold and that I will attempt to purchase intoxicating liquor or nonintoxicating beer products, but only under the direction and supervision of agents of the _____.

3. I understand that I may wear an audio recording or transmitting device, which will record or transmit oral conversations, while I am attempting the purchase of intoxicating liquor or nonintoxicating beer products, and I consent to wearing such. I also consent to the video recording of my activities during these attempts.

4. I understand and agree that I may be required to appear and testify in court and/or in an administrative proceeding concerning the purchase of intoxicating liquor or nonintoxicating beer products or other criminal or administrative violations and that said appearance and testimony may be required in Jefferson City or another location in this state.

Signature

Print Name

Sworn to and subscribed before me this _____ day of _____, 20_____.

Notary Public



- 4. The name of each establishment visited by the minor, and the date and time of each visit;
- 5. The audiotape or videotape specified in subsection (1)(F) above; and
- 6. A written Minor Report in the following form:

Minor Report

Date of Purchase: _____ Time of Purchase: _____ a.m./p.m.

Name of Establishment: _____

Address: (street and city) _____ (County) _____

Approximate Age of Seller: _____ Sex of Seller: _____

Hair Color of Seller: _____ Clothing of Seller: _____

Seller's Actions (did or did not ask for I.D.): _____

Description of Product and Brand Purchased: _____

Quantity: _____ Price: _____

Conversation with Seller: _____

Other Details: _____

Minor's Signature

(J) The state, county, municipal or other local law enforcement agency must provide pre-recorded currency to the minor, to be used in the operation, and, if a violation occurs, must make all reasonable efforts to retrieve the pre-recorded currency. If a violation occurs, said agency shall further secure and inventory any intoxicating liquor or non-intoxicating beer products purchased; and

(K) The state, county, municipal or other local law enforcement agency must, in advance of the operation, train the minor who will be used in the operation, which training shall, at a minimum, include i) instruction to enter the designated establishment and to proceed immediately to attempt to purchase intoxicating liquor or nonintoxicating beer products; ii) instruction to provide the minor's valid identification upon a request for identification by the seller; iii) instruction to answer truthfully all questions about age; iv) instruction not to lie to the seller to induce a sale of intoxicating liquor or nonintoxicating beer products; v) instruction on the use of pre-recorded currency; and vi) instruction on the other matters set out in this regulation.

ment agency, nor discipline any licensed establishment when any state, county, municipal, or other law enforcement agency chooses not to follow the supervisor's permissive standards.

AUTHORITY: section 311.722, RSMo Supp. 2005. Original rule filed Jan. 13, 2006, effective Aug. 30, 2006.

**Original authority: 311.722, RSMo 2005.*

(2) The supervisor of alcohol and tobacco control shall not participate with any state, county, municipal, or other local law enforce-