



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 eighteen percent (18%) of alcohol by weight and manufactured from grapes, berries, and other fruits and vegetables grown in Missouri in accordance with section 311.190, RSMo.

(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.

(3) Malt liquor is any beverage brewed from malt or a malt substitute, which only includes rice, grain of any kind, bean, glucose, sugar, and molasses. Honey, fruit, fruit juices, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting beer. Flavor and other nonbeverage ingredients containing alcohol may be used in producing beer, but may contribute to no more than forty-nine percent (49%) of the overall alcohol content of the finished beer. In the case of beer with an alcohol content of more than six percent (6%) by volume, no more than one and one-half percent (1.5%) of the volume of the beer may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol in accordance with section 311.490(1) and (2), RSMo.

(4) Ordinary Commercial Credit.

(A) Malt Beverages. Ordinary commercial credit for malt beverages is credit that requires payment to be made by the retail licensee by the last day of the month for malt beverages delivered 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 following month for malt beverages 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 may sell or deliver malt beverages while the retail licensee owes the brewer or wholesaler for malt beverages

beyond the period of time as indicated in this subsection.

(B) Spirituous Liquor and Wine. Ordinary commercial credit for spirituous liquor and/or wine is credit that requires payment to be made by the retail licensee within thirty (30) days after the delivery of spirituous liquor and/or wine to the retail licensee. No distiller, wholesaler, or wine maker may sell or deliver spirituous liquor and/or wine while the licensee owes the distiller, wholesaler, or wine maker for spirituous liquor and/or wine beyond the period of time as indicated in this subsection.

(5) Original package refers to any package containing one (1) or more standard bottles, pouches, or cans of malt liquor, fifty (50) milliliters (1.7 ounces) or more of spirituous liquors and one hundred (100) milliliters (3.4 ounces) or more of wine in the manufacturer's original container. A standard bottle is any bottle, pouch, or can containing twelve (12) ounces or less of malt liquor.

(6) The words permit and license, whenever used as nouns in Chapter 311, RSMo and in these regulations are synonymous.

(7) The words permittee and licensee, whenever used as nouns in Chapter 311, RSMo and in these regulations are synonymous.

(8) 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.

(9) Premises is the place where intoxicating liquor 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.

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

(11) 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.

(12) Wholesaler and/or wholesale-solicitor is a person holding a license to sell intoxicating liquor to wholesalers or to retailers.

(13) 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.

(14) Applicant refers to the sole proprietor, partnership, or entity applying for a liquor license.

(A) Entity refers to any association, corporation, limited liability company, limited partnership, or other business structure not in conformance with a sole proprietor or partnership structure as defined herein.

(B) Partnership refers to two (2) or more persons who share management and profits.

(C) Sole Proprietor refers to a business that legally has no separate existence from its owner and is not considered a legal entity. Income and losses are taxed on the individual's personal income tax return.

AUTHORITY: section 311.660, RSMo 2016. 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. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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 including payment for the correct amount of the license fee are to be submitted to the supervisor of



Alcohol and Tobacco Control at the Central Office in Jefferson City, or any operational Alcohol and Tobacco Control field office within the state. If payment is rejected for insufficient funds and the licensee has not replaced such payment within fourteen (14) days of notification with sufficient funds, 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 payment, 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 payment.

(2) Application is to be made on the forms prescribed by the supervisor.

(3) No agent may authorize any applicant to exercise the privileges of the license applied for pending its issuance.

(4) If application is made by a partnership, the application should 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 are to sign the application.

(5) If application is made by an entity, the application should set out the names and residences of any officers and all members or shareholders, whether they be active or silent investors. All members or shareholders shall qualify under the laws of Missouri for the license.

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

(7) Violation of any oath taken by a licensee in connection with his/her application for a license is cause for suspension or revocation of the license where an oath is necessary, by any statute of Missouri or any regulation of the Supervisor of Alcohol and Tobacco Control, to be taken.

(8) 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

request 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.

(9) 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 is 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 may be terminated and cancelled on the date specified, unless supported by other sufficient bond(s), and the surety can be relieved of liability on the bond for any default of the principal accruing on and after the date named.

(10) Every applicant for a liquor license of any kind will present all applicable items listed on the checklist of requirements that corresponds to the application form as prescribed by the supervisor of Alcohol and Tobacco Control.

(11) No license may 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 until a period of five (5) years after the date of the revocation of the license, and then at the discretion of the supervisor of Alcohol and Tobacco Control.

(12) The supervisor of Alcohol and Tobacco Control, at his/her discretion and for good cause, may issue a temporary license for up to ten 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 may be considered by the supervisor of Alcohol and Tobacco Control.

AUTHORITY: section 311.660, RSMo 2016.* 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. Amended: Filed Oct. 10, 2018, effective May 30, 2019.

*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) Written notice is to be provided to the supervisor of Alcohol and Tobacco Control if any factor or information changes from what is set forth on an application during a period of licensure.

(2) A license issued pursuant to this chapter is to be displayed in a conspicuous place on the premises where the business is carried on, as well as any city license designating the premises as a place to sell intoxicating liquor. A license may only be posted at the premises where traffic in intoxicating liquor is being carried on by any person other than the licensee. A license may not be knowingly defaced, destroyed, or altered.



(3) The supervisor of Alcohol and Tobacco Control may allow a license to 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 in writing the transfer and the application for permission to transfer including—

(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 any rule of the supervisor; and

(D) A consent of surety(ies), signed, and witnessed by private individuals in the same manner in which the signatures appear on the bond itself. If the bond was signed by a surety company, the consent needs to 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 Alcohol and Tobacco Control.

(4) Whenever a license is 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 may be issued by the supervisor of Alcohol and Tobacco Control without cost to the licensee.

(5) Unless licensed by the supervisor of Alcohol and Tobacco Control as such, no receiver, assignee, trustee, guardian, administrator, or executor may sell any intoxicating liquor belonging to the estate over which s/he has control, except to a licensed wholesaler or retailer except with the consent of the supervisor of Alcohol and Tobacco Control to sell the intoxicating liquor. The supervisor may consent after receiving 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 may the special certifi-

cate continue in effect for more than ten (10) days from the date of issuance.

(7) Corporations licensed under the provisions of section 311.060, RSMo, are to have a managing officer who is a person in the corporation's employ, either as an officer or an employee with the general control and superintendence.

(A) If a vacancy occurs in the office of the managing officer, a replacement qualified, pursuant to section 311.060, RSMo, shall be named within fifteen (15) days of the vacancy.

AUTHORITY: section 311.660, RSMo 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Oct. 10, 2018, effective May 30, 2019.

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

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, may accept any loans, equipment, money, credit, or property of any kind, except ordinary commercial credit. Except as provided in section 311.070, RSMo, no retail licensee may permit any distiller, wholesaler, wine maker, solicitor, brewer or employees, officers, or agents, under any circumstances to have any direct or indirect financial interest in his/her retail business for the sale of intoxicating liquor, and s/he shall not accept, directly or indirectly, from a distiller, wholesaler, wine maker, solicitor, 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 sold to the retailer. A retailer may accept, to properly preserve and serve draught beer and to properly preserve and serve draught wine, only equipment and services as allowed in section 311.070, RSMo.

(A) A sale by a licensed wholesaler to a licensed retailer of intoxicating liquor 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 means the actual invoice charge for the merchandise by the supplier of the merchandise to the wholesaler, manufacturer, brewer, or solicitor, plus the cost of transportation 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 in question is less than the cost of intoxicating liquor to the wholesaler selling the same, and has been designated as close-out merchandise pursuant to section 311.335.3, RSMo and 11 CSR 70-2.190(2)(D). A licensed wholesaler may not use close-out pricing as an inducement for retailers to purchase other intoxicating liquors.

(2) No distiller, wholesaler, wine maker, solicitor, brewer or employees, officers, or agents of same may, directly or indirectly, 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, or malt liquor, or for the purpose of advertising the name, trademark, or trade name of any mark-er of the trademark.

(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, may 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 2016. * 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. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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 may buy, obtain, or accept any intoxicating liquors from any person who does not hold a Missouri permit as



a manufacturer or solicitor, provided that the wholesaler owning warehouse receipts may obtain the written permission from the supervisor of Alcohol and Tobacco Control to receive intoxicating liquor from federal customs bonded warehouses or federal internal revenue bonded warehouses.

(2) No wholesale licensee may deliver or cause any intoxicating liquors to be delivered to any licensee while the licensee is under suspension by the supervisor of Alcohol and Tobacco Control.

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

(4) No wholesaler licensee may deliver or cause intoxicating liquors to be delivered to any premises unless there is a license displayed prominently issued by the supervisor of Alcohol and Tobacco 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, wine, or beer s/he is about to deliver.

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

(6) Shipments by wholesalers or solicitors may be made only to licensed dealers of this or other states. A bill of lading is to be secured from the carrier and kept on file for a period of two (2) years so that shipments may be traced by the division's auditors or agents.

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

AUTHORITY: section 311.660, RSMo 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed April 23, 1981, effective Aug. 13, 1981. Amended: Filed Oct. 10, 2018, effective May 30, 2019.

**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.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Regulations announced pursuant to the Federal Alcohol Administration Act 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 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, or malt liquor, 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, or malt liquor 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) 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, are to be sterilized or cleaned by thoroughly rinsing with clean sterile water or by blowing or vacuuming with proper machines for sterilization or cleansing; and

(B) All used bottles are to be sterilized by soaking in a hot caustic solution which contains not less than three percent (3%) caustic or alkali expressed in terms of sodium hydrate. The period of time in the solution is to be governed by the temperature and

strength of the solution. The bottles are then to be rinsed thoroughly in clean sterile water until free from alkali or sodium hydrate.

(3) All manufacturers and wholesalers are to keep their premises and equipment in a clean and sanitary condition.

(4) Malt liquor in bottles, cans, jugs, barrels, or kegs may be brought in or transported within this state for the purpose of sale to any licensee or be sold to any licensee in cases, barrels, or kegs the sizes of which have been approved by the US Treasury Department, Alcohol and Tobacco Tax and Trade Bureau.

(5) 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 US Treasury Department, Alcohol and Tobacco Tax and Trade Bureau; and

(B) An "owner" of a facility which brews or manufactures malt liquor is defined as an 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 US Treasury Department, Alcohol and Tobacco Tax and Trade Bureau.

AUTHORITY: section 311.660, RSMo 2016. 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. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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 may 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 US



Treasury Department, *Alcohol and Tobacco Tax and Trade Bureau*.

(2) The tax on spirituous liquor is two dollars (\$2) per gallon and the tax on wine is forty-two cents (\$.42) 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 is contraband and may be seized and disposed of by the supervisor or his/her agents.

(4) No person other than a licensed distiller, rectifier, or wine manufacturer may 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 2016. 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. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

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

11 CSR 70-2.080 Malt Liquor 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 is one dollar eighty-six cents (\$1.86) per barrel or six cents (\$.06) per gallon.

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

(3) Any malt liquor shipped into, sold, or offered for sale in this state without payment of the proper amount of taxes due is contraband and may be seized and disposed of by the supervisor or his/her agents.

AUTHORITY: section 311.660, RSMo 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

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

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

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

(1) Every distiller, solicitor, and wine manufacturer licensed to sell spirituous liquor and wine in this state needs to file with the supervisor of Alcohol and Tobacco 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, solicitor, or wine manufacturer and wholesale licensee. Any change in the listing is to 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 is to be submitted at the time of execution thereof. If there is no contract or agreement with respect to any wholesaler, the distiller, solicitor, or wine manufacturer should so indicate in its report.

(2) On or before the 15th of each month every distiller, solicitor, 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 shall certify in a report under oath to the supervisor of Alcohol and Tobacco Control setting out all sales of spirituous liquor and wine in this state for the preceding month.

(A) The reports, when made by a licensee who has shipped spirituous liquor and wine into this state, should show the amount of spirituous liquor and wine shipped or sold to each wholesaler in this state for the previous month, designating separately the amount of spirituous liquor and the amount of wine.

(B) Reports made by distillers, solicitor, and wine manufacturers in this state shall show the amount of spirituous liquor and wine distilled or manufactured, amount bottled, and 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 for the previous month.

(C) Reports made by spirituous liquor and wine wholesalers in this state are to show the amount of spirituous liquor and wine received from other distillers, solicitors, wine manufacturers, and wholesalers; and the amount of liquor and wine sold to other wholesale licensees for the previous month.

(D) Forms for the reports required by this regulation are available from the supervisor.

AUTHORITY: section 311.660, RSMo 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

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

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) On or before the 15th of each month every manufacturer, brewer, and bottler authorized to ship malt liquor 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 certify in a report under oath, to the supervisor of Alcohol and Tobacco Control, setting out all sales of malt liquor for the preceding month.

(A) The reports, when made by a licensee who has shipped malt liquor into this state, are to show the amount of malt liquor shipped or sold to each wholesaler in this state for the previous month.

(2) Reports made by manufacturers, brewers, and bottlers in this state should include the quantity of malt liquor 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. The report also should include the amount of malt liquor shipped or sold to each licensee in this state for the previous month.

(3) It is the duty of each holder of a license authorizing the sale of malt liquor at wholesale to file in the office of the supervisor of Alcohol and Tobacco Control on or before the fifteenth day of the month a sworn statement showing the amount of malt liquor purchased during the preceding month, and from whom purchased.

(A) Forms for the reports required by this regulation are available from the supervisor.



AUTHORITY: section 311.660, RSMo 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

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

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 licensees are to keep their licensed premises clean and sanitary and meeting minimum standards of the Missouri Department of Health and Senior Services and local sanitation laws and ordinances where applicable.
- (2) If any retail licensed premises has multiple licenses for separate businesses in the same building, then the building shall be partitioned in a manner that the partitions 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. Each premises shall have a separate

entrance in front and different street addresses, so as to indicate sufficiently that the businesses are run separately and distinct from each other. In addition, the business maintained on each of the premises shall be manned and serviced by an entirely separate and distinct group of employees and there may 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 are to be maintained.

(3) Hotels and 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, complies with the provisions of section 311.330, RSMo.

(4) No retailer may place or permit the placing of any object on or within the windows of premises covered by licenses which impedes or obstructs vision from the exterior into the interior.

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

(6) No licensee may 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 (86) 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.

(7) Licenses authorizing the retail sale of intoxicating liquor by the drink on Sunday between the hours of 9:00 a.m. and midnight may be issued to all qualified applicants as defined in section 311.293, RSMo.

(A) An applicant for a restaurant-bar license is to 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 Sunday license is sought and the description at the premises on each license shall be exactly the same as those premises covered by an existing retail sale of intoxicating liquor by the drink license.

(8) Licensees may apply to the supervisor for an exemption to the limitation of five (5) licenses to sell intoxicating liquor at retail by drink for consumption on the premises.

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

AUTHORITY: section 311.660, RSMo 2016. 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. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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 has had his/her license suspended by order of the supervisor of Alcohol and Tobacco Control may sell, give away, or permit the consumption of any intoxicating liquor, nor may s/he order or accept delivery of any intoxicating liquor 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 should display



the order of suspension issued by the supervisor of Alcohol and Tobacco 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 may knowingly 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 may 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, or to pour into, mix with or add intoxicating liquor other than malt 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 may 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 may 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 may sell, give away, or possess any spirituous liquor from or in any container 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, may not substitute another brand or type of spirituous liquor or beer.

(8) No retail licensee may 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 is inapplicable to any legal sign or advertisement placed on a vehicle being used to deliver intoxicating liquor or malt beverages.

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

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

(11) No holder of a license to sell intoxicating liquor by the drink may 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, in any quantity, nor may s/he permit any patron of the establishment operated by him/her to give to any on duty employee any intoxicating liquor, 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 is inapplicable 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 Chapter 311 relating to opening and closing.

(12) Improper Acts.

(A) At no time, under any circumstances, may 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 may any licensee or his/her employees allow any indecent, profane, or obscene 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 are obligated to immediately report the occurrence to law enforcement authorities and cooperate with law enforcement authorities and agents of the Division of Alcohol and Tobacco Control during the course of any investigation into an occurrence.

(13) Lewdness. No retail licensee or his/her employee may 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.

(14) In the event the premises of any licensee is declared to be off-limits by the military authorities, the licensee may not permit any member of the armed forces to be in or upon the premises covered by his/her license. Provided, this is only effective after the licensee is notified of the order by the supervisor of Alcohol and Tobacco Control. Members of the Military Police or Shore Patrol are exempt from this provision.

AUTHORITY: section 311.660, RSMo 2016. 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. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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 Control Laws or the regulations of the supervisor of alcohol and tobacco control.
- (2) 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 the licensee’s possession or under its control, and all places where the licensee keeps or has liquor stored, may be inspected by the supervisor of alcohol and tobacco control and his/her agents. Licensees shall cooperate fully with the agents during the inspections.
- (3) All licensees shall keep complete and accurate records pertaining to their businesses. Such records include a complete and accurate record of all purchases and of all sales of intoxicating liquor made by them. These records are to 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 are to keep all files, books, records, papers, state, county and city licenses, and accounts and memoranda pertaining to the business conducted by them, on the licensed premises. The supervisor of alcohol and tobacco control or his/her duly authorized agents and auditors, may inspect, audit, or copy such records at any time.
 - (B) All records required to be kept by law or rule of the supervisor shall be kept and preserved for a period of two (2) years from the date the record was made.
- (4) No licensee may buy or accept any warehouse receipt unless the seller or donor of the receipt first acquires the written permission of the supervisor of alcohol and tobacco control to sell or give away the receipt.
- (5) No licensee may have consigned to him/her, receive or accept the delivery of, or keep in storage any intoxicating liquors upon any premises other than those described in his/her license without first having obtained the written permission of the supervisor of alcohol and tobacco control.
- (6) No wholesale or retail licensee may 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 may 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) Licensees who—
 - (A) Desire to employ persons under the age of twenty-one (21) as authorized by section 311.300, RSMo, may apply to supervisor using forms provided for that purpose; and
 - (B) Employ persons under the age of twenty-one (21) years as authorized by section 311.300, RSMo, who do not have at least fifty percent (50%) of the gross sales consisting of nonalcoholic sales may be permitted if an employee twenty-one (21) years of age or older is on the licensed premises during all hours of operation.
- (8) No person licensed by the supervisor of alcohol and tobacco control may allow upon his/her licensed premises any self-service, coin-operated, mechanical devices, or automatic dispensers for the purpose of selling or dispensing intoxicating liquor except as pursuant to section 311.205, RSMo.
- (9) Any licensee may sponsor or allow promotional games to be conducted upon his/her licensed premises, provided that—
 - (A) The consumption of intoxicating liquor should not be related to or an element of a promotional game or contest either directly or indirectly;
 - (B) Intoxicating liquor may not be a prize of a promotional game or contest either directly or indirectly;
 - (C) The conduct or playing of games on premises approved by the Missouri Gaming Commission to conduct games in accordance with Chapter 313, RSMo, does not constitute gambling or gambling activities when the games are conducted in accordance with Chapter 313, RSMo, and the activity, by itself, does not constitute a violation of this regulation;
- (D) The sale of state lottery tickets or shares on premises licensed by the lottery commission to sell lottery tickets or shares to the public does not constitute gambling or gambling devices when conducted in accordance with Chapter 313, RSMo and the activity, by itself, does not constitute a violation of this regulation; and
- (E) 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, does not constitute gambling or gambling devices when conducted on licensed premises by the charitable organization.
- (10) No licensee may 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; or any person who has had a license revoked under Chapter 311, RSMo, unless five (5) years have passed since the revocation of the license.
- (11) No licensee, his/her agent, or employee may sell intoxicating liquor 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.
- (12) No licensee, his/her agent, or employee may permit anyone under the age of twenty-one (21) years of age to consume intoxicating liquor upon or about his/her licensed premises.
- (13) No licensee, his/her agent, or employee may allow upon or about the licensed premises solicitation for the purposes of prostitution or other immoral activities by any person.
- (14) No licensee, his/her agent, or employee may 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.
- (15) No licensee, his/her agent, or employee may mix or pour, or permit to be mixed or poured, any intoxicating liquor directly into any person’s mouth upon or about the



licensed premises.

AUTHORITY: section 311.660, RSMo 2016.* 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. Amended: Filed June 5, 2018, effective Jan. 30, 2019.

*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 shall present claims to the supervisor of Alcohol and Tobacco Control and 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 can be made by the supervisor or his/her agents. The agents shall make an affidavit that they inspected the intoxicating liquors and/or malt liquors denoting in the affidavit the brand, number of the containers or cases, and the disposition to be made of the spirituous liquor, wine, or malt liquor.

(3) 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.

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

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

AUTHORITY: section 311.660, RSMo 2016.*

This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Oct. 10, 2018, effective May 30, 2019.

*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) 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 or entity licensed by the supervisor of Alcohol and Tobacco Control to sell intoxicating liquor may pledge any warehouse receipt(s) owned by him/her to secure the payment of any debt to any person or entity 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 Alcohol and Tobacco Control to do so.

(B) Request for permission can be submitted by the pledgee to the supervisor of Alcohol and Tobacco Control in writing and include the name of the proposed purchaser and whether or not the proposed purchaser intends to take possession of the liquor under the receipt(s). Under no circumstances may permission be given to the pledgee to sell any of the warehouse receipt(s) to any person or entity 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 Alcohol and Tobacco Control in Missouri.

(C) The pledgee seeking the permission to sell the warehouse receipt(s) should accompany the request by a copy of the pledge agreement and a 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 may any person or entity licensed by the supervisor of Alcohol and Tobacco 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 or entity may be granted permission to sell warehouse receipts and no licensee of the supervisor of Alcohol and Tobacco Control may be given permission to purchase any warehouse receipt(s) unless the person or entity seeking permission, either to sell or to buy, agrees 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 Alcohol and Tobacco Control. Any permission given will be promptly revoked unless the reports are made.

AUTHORITY: section 311.660, RSMo 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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 unnecessary for the retail sale of intoxicating liquor 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 may be imposed on any intoxicating liquor 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 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Dec. 14, 1987, effective March 11, 1988. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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) This regulation applies to spirituous liquor and wine products containing alcohol in excess of five percent (5%) by weight sold by a duly licensed wholesaler to a duly licensed retailer.

(2) Product Pricing Information.

(A) The product pricing information is to be made available to retailers five (5) days prior to the last day of the month and include the brand number, brand or trade name, capacity of individual packages, nature of contents, age and proof, the per bottle and per case price, the number of bottles contained in each case, and the size thereof.

(B) Supplemental pricing information is to be made available to retailers when a new product, new size, or new proof is added by a wholesaler during the month and not subject to change before the first of the month when regularly filed product pricing information is effective. A wholesaler is allowed to sell such items to retailers immediately upon production of such supplemental information. Supplemental pricing information includes the brand number, brand or trade name, capacity of individual packages, nature of contents, age and proof, the per bottle and per case price, the number of bottles contained in each case, and the size thereof.

(C) The wholesaler may sell at any price for any item as long as it is sold above their cost and they sell at the same price to all retailers as indicated on their product pricing information.

(D) Close out items should be identified as such on the product pricing information that is made available to retailers at prices which may be below the wholesaler's costs for not less than six (6) consecutive months during which time the wholesaler may not purchase further inventory. The wholesaler should not use close out pricing as an inducement for

retailers to purchase other intoxicating liquors.

(3) Discounts.

(A) The wholesaler may grant any discount up to one (1) per centum for quantity of liquor and wine and one (1) per centum for payment on or before a certain date.

(B) 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 not exceed the maximum one percent (1%).

(C) 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.

(D) The combination of discounts to be posted on the product pricing information are as follows: No discount, one percent (1%) for time of payment, one percent (1%) for quantity discounts, or one percent (1%) for time of payment and one percent (1%) for quantity.

(E) 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.

(4) 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 pricing 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

(A) The Universal Coding of Alcoholic Beverages for Products by container size is to 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;

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

(C) If an intoxicating liquor or wine product is packaged by the manufacturer in a bottle quantity for that bottle size exceeding one (1) but either more or less than the case quantity for the bottle size listed in section (4), 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.

(5) The price to retailers, except retailers operating railroad cars, should 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) may 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 imposed on all retailers who have past due accounts.

(6) Delivery. Any brand of liquor or wine sold to a retailer is to be shipped to and received by the retailer at the price in effect for that calendar month in which the delivery occurs. Delayed shipment orders may be taken the last five (5) days of the month and delivered in the first five (5) days of the following month.

(7) Returns. Merchandise returns exceeding seven (7) days from delivery date may 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:

(A) 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 deliv-

ered. Requests to return merchandise delivered in error should be submitted to the supervisor within thirty (30) days of the original invoice; or

(B) The retailer is abandoning the retail liquor business.

(8) Breakage, Samples, Expenses. As part of its regular books and records, each wholesaler licensed to sell intoxicating liquor or wine is required to keep a monthly record of all allowances for breakage containing the name, address, and license number of the customer, the amount of breakage allowance, and the date and number of the invoice of sale for which allowance is given. No allowance for breakage may be given unless the broken bottle is returned to the seller within seventy-two (72) hours after delivery. Broken bottles are to 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 only with permission from the supervisor.

(9) Posting of Contraband Liquors and Wines Purchased From Supervisor. Bottles or cases of liquor or wine as described in section (4) 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 posted 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 posted, the pricing is to 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.

(10) Discriminatory Agreements.

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

(B) No person holding a license as the wholesaler for the sale of spirituous liquor or wine may 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 may sell merchandise which s/he owns.

(11) Universal Numeric Codes on Invoices. The Universal Numeric Code for Alcoholic Beverages and Missouri's brand number is to be used to code all wines on all invoices written by any manufacturer, vintner, solicitor, and/or wholesaler licensed by the Division of Alcohol and Tobacco Control of Missouri; this includes invoices written by wholesalers to retail licensee. In addition, the descriptive data for liquors and wines includes the age or vintage, proof or percent of alcohol by weight, class and type, and brand name. Missouri wholesalers are to 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 Chapter 311, RSMo to comply in all respects with the rules and any violation by any licensee of these rules may be deemed to be cause for the revocation or suspension of the license of the offending licensee.

AUTHORITY: section 311.660, RSMo 2016. 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. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

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

11 CSR 70-2.200 Salesmen (Rescinded January 30, 2019)

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Rescinded: Filed June 5, 2018, effective Jan. 30, 2019.

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
(Rescinded January 30, 2019)

AUTHORITY: section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Rescinded: Filed July 9, 2018, effective Jan. 30, 2019.

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 or entities who own and operate more than one (1) premises licensed to sell intoxicating liquor at retail.

(2) Any person or entity set forth in section (1), with the permission of the supervisor of Alcohol and Tobacco Control, may designate one (1) or more places as a central warehouse to which intoxicating liquors ordered and purchased by a person or entity from licensed wholesalers may be delivered by licensed wholesalers and at which intoxicating liquors so owned by a person or entity may be stored.

(3) Any person or entity set forth 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 or entity 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 or entity as set forth in section (1), and brands not privately owned but sold exclusively by only one (1) person or entity may be transferred from the warehouse to any licensed premises in the state owned by a person or entity, who is the exclusive retail dealer of the brand; provided, however, that malt liquor is not 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 is deemed to be a county for the

purposes of this regulation.

(4) Any person or entity set forth in section (1) desiring to transfer intoxicating liquor from a premises licensed to sell intoxicating liquors at retail-owned and controlled by a person or entity to another premises so licensed and owned and controlled by the same person or entity, should first notify the supervisor of Alcohol and Tobacco 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 no transfer may be made until the supervisor of Alcohol and Tobacco Control has assented to the transfer or until three (3) full days (not counting Saturdays, Sundays, and holidays) has elapsed after the receipt of the notice by the supervisor of Alcohol and Tobacco Control during which time the supervisor did not refuse the transfer.

AUTHORITY: section 311.660, RSMo 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed May 15, 1987, effective Aug. 13, 1987. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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 syn-

onymous 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) Intoxicating liquors which are damaged in this state as a result of flood, wreck, fire, or similar occurrence may be sold for salvage.

(2) Intoxicating liquors 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 including 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 is to be examined at the scene of the occurrence, as soon as practicable, by a representative of the Department of Health and Senior Services and the sale is not to 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 cannot be issued until an inspection of the distressed merchandise is made by an agent of the Division of Alcohol and Tobacco Control who will determine whether the merchandise is within the meaning of this regulation and that all Missouri taxes have been paid; and

(D) No merchandise may 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).

(3) Intoxicating liquors so salvaged are referred to as distressed merchandise.

(A) Each container of intoxicating liquors sold pursuant to this regulation shall bear a label, to be provided by the Division of Alcohol and Tobacco 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 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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 declares a state of emergency, calls out the organized militia or any portion or individual of the militia to execute or ensure obedience to law or declare a state of martial law in any section of this state, all persons, partnerships, or entities licensed



under the laws of Missouri to sell, dispense, or otherwise deal with intoxicating liquor, upon notice from the supervisor of Alcohol and Tobacco Control, announced publicly or delivered personally, are to suspend further business under the licenses issued to the persons, partnerships, or entities until the time as the supervisor determines and so informs 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 Alcohol and Tobacco Control may specify the geographical limit within the state within which area the licenses shall be suspended.

AUTHORITY: section 311.660, RSMo 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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, means any person, partnership, or entity licensed as a manufacturer, distiller, vintner, rectifier, solicitor (or any employee or agent of the solicitor) which distributes wine or spirituous liquor to duly licensed wholesalers in this state.

(2) The term wholesaler, as used in this regulation, means any person, partnership, or entity (or any employee or agent of the enterprise) licensed to sell wine or spirituous liquor to duly licensed retailers in this state.

(3) No supplier may 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 may, directly or indirectly, 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 may 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 are to register with the supervisor of Alcohol and Tobacco Control, the lines, brands, or both of alcoholic beverages which they handle and distribute in this state. No wholesaler may 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 spirituous 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 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, suppliers are to 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 2016. This version of rule filed April 16, 1975, effective April 26, 1975. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**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 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 are guidelines for the use of minors in intoxicating liquor investigations by a state, county, municipal, or other local law enforcement authority:

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

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

(C) The minor carry his or her own identification showing the minor's correct date of birth and, upon request, produce such identification to the seller of the intoxicating liquor 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 not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of intoxicating liquor;

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

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

(G) The minor is not 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 makes reasonable efforts to confront the seller in a timely manner, and 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 maintains 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 copy of the minor's valid identification, showing the minor's correct date of birth;
3. An Information and Consent document, completed by the minor in advance of the operation;
4. The name of each establishment visited by the minor, and the date and time of each visit; and
5. The audiotape or videotape specified in subsection (1)(F) above; and
6. A written Minor Report.

(J) The state, county, municipal, or other local law enforcement agency provides currency to the minor, to be used in the operation. If a violation occurs, said agency should further secure and inventory any intoxicating liquor products purchased; and

(K) The state, county, municipal, or other local law enforcement agency, in advance of the operation, train the minor who will be used in the operation. Training, at a minimum, includes:

1. Instruction to enter the designated establishment and to proceed immediately to attempt to purchase intoxicating liquor products;
2. Instruction to provide the minor's valid identification upon a request for identification by the seller;
3. Instruction to answer truthfully all questions about age;
4. Instruction not to lie to the seller to induce a sale of intoxicating liquor products;
5. Instruction on the use of currency; and
6. Instruction on the other matters set out in this regulation.

(2) The supervisor of Alcohol and Tobacco

Control shall not participate with any state, county, municipal, or other local law enforcement 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 2016. Original rule filed Jan. 13, 2006, effective Aug. 30, 2006. Amended: Filed Oct. 10, 2018, effective May 30, 2019.

**Original authority: 311.722, RSMo 2005, amended 2009.*