

DIVISION OF ALCOHOL AND TOBACCO CONTROL

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INDUSTRY CIRCULAR

Missouri Amendment 3 – Marijuana Legalization

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Stakeholders have requested clarity on how the legalization of marijuana for adult use, through 2022 Missouri Constitutional Amendment 3 (Amendment 3), will impact existing and future liquor licenses. This circular is designed to help answer some of the questions ATC has already received and answer future ones. Amendment 3 takes effect in December, 2022. Under § 311.660.1(6), RSMo 2021, the Supervisor is tasked with establishing the rules and regulations for the conduct of the business of licensees. Under Subsection (10), the Supervisor is tasked with making rules and regulations to carry out the provisions of Chapter 311. Regulation 70-2.140(14) previously banned the possession, storage, and sale of marijuana by a licensee.

Federal Laws Contrasting Missouri's Position on Marijuana

It will continue to be unlawful to consume marijuana on a licensed premise unless exempt by rule or statute. *See e.g.* 11 CSR 70-2.130(14) (2023). One requirement of certain state liquor licenses under RSMo § 311.240 is the ability to obtain a federal liquor license. Marijuana is still a federally controlled substance. 21 U.S.C. Section 811. Because of the continued federal ban, the use of marijuana on a licensed premise shall still be “improper or unlawful conduct” under State Regulation 70-2.130 beyond the effective date of Amendment 3 unless specifically permitted by the Department of Health and Senior Services (DHSS), which will be discussed below.

Similarly, the Alcohol and Tobacco Tax and Trade Bureau (TTB) has explicitly stated that it will not approve any formulas or labels for alcoholic beverages that contain a “controlled substance under federal law, including marijuana.” (<https://www.ttb.gov/faqs/alcohol> at A29), Federal approval of formulas and labels is required for state approval of beer, spirits, and wine. *See* RSMo §§ 311.510.3 and 540; 11 CSR 70-2.060(2).

Public Safety Considerations

The Liquor Control Law's primary purpose is to “promote responsible consumption” of alcoholic beverages. RSMo § 311.015. Further, it is unlawful in Amendment 3 to smoke marijuana in a public place other than a licensed area as defined by DHSS. Article XIV Section 2 Subsection 10(4). Amendment 3 further gives DHSS the authority to “Grant or refuse state licenses for the cultivation, manufacture, dispensing, and sale of marijuana.” Article XIV Section 2 Subsection 4(1)(a). ATC is not aware of any state marijuana license being issued by DHSS to a liquor licensee at this time. ATC maintains the authority to assess penalties on any licensee who permits violations of Amendment 3 in the interest of public safety and the responsible consumption of alcoholic beverages. *See* § RSMo 311.015; *see also* 11 CSR 70-2.130.

As a reminder, licensees may not sell alcohol to a person “appearing to be in a state of intoxication[.]” *See* RSMo § 311.310. This includes intoxication by marijuana. The Supervisor anticipates additional regulations to further clarify ATC’s position on the state legalization of marijuana and welcomes stakeholder input.

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