

DIVISION OF ALCOHOL AND TOBACCO CONTROL

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INDUSTRY CIRCULAR

FREQUENTLY ASKED QUESTIONS FOR SENATE BILL 919

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The Division of Alcohol and Tobacco Control (ATC) has compiled a Q&A for frequently asked questions regarding each section of Senate Bill 919. Each section of SB 919, excluding section 311.198, became effective Aug. 28, 2016.

Section 311.090 - What is Malt Liquor or Beer?

Section 311.195 - Microbreweries and Retail by Drink

Section 311.198 - Leasing Portable Refrigeration Equipment

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Section 311.201 - Growlers Sold by Original Package Licensees

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Section 311.328 - Acceptable Proof of Identity and Age

Section 311.665 - Statement of No Tax Due

Section 311.915 - Out-of-State Manufacturers Event Permit

Section 311.090 - What is Malt Liquor or Beer?

Q. What is considered a malt liquor or beer?

A. Beer is no longer defined by alcohol content. It is now defined based on ingredients according to section [311.490](#). As long as it adheres to the ingredient requirements, it shall be classified as intoxicating malt liquor, malt beverage or beer.

Q. Is there still a percent license?

A. No. The 5 beer liquor license has been renamed as a malt liquor (beer) license. The beer license is no longer based on alcohol content. It is now based on ingredients for malt liquor according to section [311.490](#).

Section 311.195 – Microbreweries and Retail by Drink

Q. What types of retail licenses are available to microbrewers?

A. Microbreweries now qualify for retail by drink (RBD) license which allow them to sell all types of liquor, wine and beer.

Q. Does the retail by drink license allow a microbrewery to operate on Sundays?

A. No. A microbrewery must obtain a secondary Sunday license to sell at retail on Sunday's ([SBD](#)).

Q. May a microbrewery get retail by drink license to sell liquor by the drink even if the establishment doesn't sell food?

A. Yes. As long as an establishment qualifies as a microbrewery with the state, it can get retail by drink license even if the city or county has not approved retail by drink.

Section 311.198 – Leasing Portable Refrigeration Equipment

Q. Who may lease portable refrigeration units?

A. A brewer may lease a portable refrigeration unit to a wholesaler or directly to a retailer, or a wholesaler may sublease a portable refrigeration unit directly to a retailer.

Q. When may brewers and wholesalers begin leasing portable refrigeration units?

A. Portable refrigeration units may be leased beginning Jan. 1, 2017.

Q. Is there a limit to how many portable refrigeration units may be leased?

A. Yes. A brewer may lease, or a wholesaler may sublease, not more than one portable refrigeration unit per retail location.

Q. What is the maximum term for a lease on a portable refrigeration unit?

A. Leases may not exceed five years.

Q. May a lease on a portable refrigeration unit be automatically renewed?

A. No. Leases may not be automatically renewed.

Q. Who owns the portable refrigeration unit at the end of the lease?

A. Units leased by brewers to retailers shall remain the property of the brewer at the end of the lease period. Units leased by brewers to wholesalers shall become the property of the wholesaler at the end of the lease period.

Q. Is there a maximum size limit for a portable refrigeration unit?

A. Yes. Portable refrigeration units may not exceed 40 cubic feet.

Q. May a leased portable refrigeration unit have dispensing equipment attached?

A. No. Dispensing equipment may not be attached to the unit and no beer, wine or intoxicating liquor may be dispensed directly from the refrigeration unit.

Q. Does a retailer have to stock only products of the brewer or wholesaler that is leasing the refrigeration unit to them?

A. No. A retailer may choose to stock, display and sell any product in and from the portable refrigeration unit.

Q. What are the record keeping requirements for leased portable refrigeration units?

A. Any brewer or wholesaler that provides leased portable refrigeration units must notify the Division of Alcohol and Tobacco Control within 30 days on [forms](#) designated by the division. Brewers and wholesalers must maintain records of each lease, including copies of the lease, payment documentation, and portable refrigeration unit records and information.

Q. Who is responsible for submitting notification of the leasing of a portable refrigeration unit, and what is the timeframe?

A. The brewer or wholesaler that leases a portable refrigeration unit to a retailer must submit the [Portable Refrigeration Leasing Notification](#) form to ATC within 30 days of the lease.

Q. Does Section 311.198 for the leased portable refrigeration units have an expiration date?

A. Yes. Section 311.198, which allows for brewers and wholesalers to lease portable refrigeration units, has a sunset clause. This section shall expire on Jan. 1, 2020.

Q. What happens to the active leases after Jan. 1, 2020?

A. Any lease or sublease executed prior to Jan. 1, 2020, shall remain in effect until the expiration of such lease or sublease. No new or renewed leases may be executed after Dec. 31, 2019.

Section 311.200 – Beer Definition Changes to Remove Alcohol Content Reference

Q. What is the maximum alcohol content of beer I may sell under the beer original package license?

A. The 5 percent beer liquor license has been renamed as a malt liquor (beer) license. The beer license is no longer based on alcohol content and as long as the ingredients are beer ingredients as defined in section [311.490](#), it may be sold under this license.

Q. May I sell beer with higher alcohol content than 5 percent by weight to consumers with a beer only or a beer and wine license?

A. Yes. Beer is no longer defined by the alcohol content and is defined by the ingredients it contains; therefore the alcohol content does not prevent you from selling any beer with these two licenses.

Section 311.201 – Growlers Sold by Original Package Licensees

Q. Who may sell growlers?

A. Under Section 311.201 only businesses holding an original package license (OPL) that are authorized to sell liquor, wine and beer in the original package for off-premises consumption may sell growlers.

There is an exception for growler sales under Section [311.196](#), which allows a restaurant bar that serves twenty or more different types of draft beer to sell growlers for consumption off the premises. To qualify as a restaurant bar 50 percent of gross income must come from the sale of prepared meals or food consumed on the premises.

Q. May a brewer or wholesaler provide dispensing or cooling equipment to an original package licensee?

A. No. Brewers and wholesalers may not provide dispensing or cooling equipment to original package licensees. However, pursuant to Section [311.070.4\(6\)](#), brewers and wholesalers may furnish, give or sell coil cleaning services to original package licensees as well as by the drink licensees.

Q. What are the requirements for labeling growler containers?

A. Please refer to Section 311.201.3. Containers must provide labels that contain brand name, name of brewer or bottler, class of product (beer, ale, lager, bock, stout, etc.), net contents, name of the retailer filling or refilling the growler, date of the fill or refill, the statement “This product may be unfiltered and unpasteurized. Keep refrigerated at all times”. Containers must also contain the alcoholic beverage health warning statement:

“GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.”

Q. May growlers be prefilled?

A. No. Growlers may not be prefilled. Filling and refilling may only be performed by the retailer or its employee, and shall only occur on demand by a customer.

Q. What are the procedures for filling and refilling growlers?

A. Please refer to Section 311.201.4 - Containers shall be filled or refilled with a tube from the bottom of the container to the top with one part of the tube attached to the faucet and the other end extended to the bottom of the container. A commercial filling machine may be used. Food grade sanitizer shall be used in accordance with the sanitizer label use instructions. One container of liquid food-grade sanitizer shall be maintained with no less than five filling or refilling tubes for each 10 malt beverage taps. The container shall be visually inspected for contamination and then immersed in the container with the liquid food-grade sanitizer. A different tube must be used for each filling or refilling. The container shall be in compliance with the FDA Food Code 2009: [Section 3-304.17\(c\)](#).

Q. Are there any other special instructions on the filling and refilling of containers?

A. Yes. Tubes shall be stored immersed in the liquid food-grade sanitizer, and containers must be sealed with tamper proof seals.

Q. May growlers be sold by holders of a caterer's permit?

A. No. Section [311.485](#) restricts caterer's permits to retail by drink (RBD) licensees that hold licenses for on premises consumption. Growlers may not be sold by retail by drink licensees.

Q. May manufacturers prefill growlers and sell them to wholesalers?

A. No. Growlers may not be prefilled. They must be filled or refilled by retail employees of original package (OPL) licensees on demand of customers.

Q. May growlers be in a can rather than glass? What about plastic?

A. Yes. There are no restrictions on the type of container other than size.

Q. May labels be hand written?

A. Yes. The statute does not specify whether the label is to be printed or hand written, just that the printed letters must be more than 3mm in height and not more than 12 characters per inch.

Q. May a retailer receive financial assistance from a manufacturer or a wholesaler to defer the cost of setting up a growler station?

A. No. Section [311.070](#) prohibits a manufacturer or a wholesaler from providing financial assistance to a retailer.

Q. What does "class of product" mean?

A. Class of product refers to the type of beer such as ale, lager, bock, stout, or other brewed or fermented beverage.

Q. What does "net contents" mean?

A. Net contents refers to the amount of malt liquor/beer contained in the growler such as 32 ounces.

Q. Must the net contents be printed on the label or may it be embossed on the bottle?

A. The Alcohol and Tobacco Tax and Trade Bureau (TTB) allows etching, burning and embossing of label information. As long as the information required on the label is on the bottle in a manner as ascribed in the statute, it would meet the requirements of a label.

Q. Are both the name and address of the retailer required to be listed on the label?

A. Yes. Both the name and address of the retailer are required to be listed on the label by statute.

Q. May we just put the store's name on the label?

A. No. Both the name and address of the retailer are required to be listed on the label by statute.

Q. We intend to reuse bottles from our store as well as other establishments, what are the Health Department guidelines on making those bottles sanitary?

A. Containers must be visually inspected for contaminants, and a different tube must be used for each fill or refill. Please contact the [Missouri Department of Health and Senior Services](#) or your local health department for more specific guidelines on sanitary processes.

Section 311.205 – Self-Dispensing Systems

Q. Are self-dispensing systems allowed?

A. Yes. Anyone licensed to sell at retail by the drink (RBD) may use self-dispensing systems that are monitored and controlled by the licensee.

Q. What products may be self-dispensed and in what quantities?

A. Self-dispensing systems may be used to serve up to 32 ounces of beer or 16 ounces of wine per patron per authorization.

Q. May the wholesaler furnish a self-dispensing system and provide follow up services for maintenance?

A. No. Wholesalers, distributors, and manufacturers may not provide self-dispensing systems, cooling equipment or provide services for the maintenance, sanitation or repair of the self-dispensing systems.

Section 311.220 – State Requirements for City or County License

Q. Do I need a city or county license before my state liquor license may be approved?

A. No. Section 311.220.3 states that an application may not be disapproved for failure to possess a city or county license. Any applicant that is issued a state liquor license without possession of a city and/or county license must submit a copy of its city and/or county license to the supervisor of Alcohol and Tobacco Control within 10 days of such license being issued.

Q. May I operate with only a state liquor license?

A. No. A licensee must be in compliance with local city and/or county requirements and acquire any required licenses prior to operating. In addition, the licenses must be prominently displayed on the licensed premises.

Q. Does this apply to caterer and picnic licenses as well as primary licenses?

A. Yes. The requirement of a city license prior to the issuance of a state license has been lifted for all license types. However, a licensee with a caterer or picnic license must comply with local city and/or county requirements.

Q. Will Alcohol and Tobacco Control refund the state licensing fee if an applicant is unable to obtain a city or county license?

A. The Division of Alcohol and Tobacco Control will refund a state licensing fee only if the licensee can prove the license was not used to purchase or sell alcohol.

Section 311.328 – Acceptable Proof of Identity and Age

Q. What is acceptable proof of identification and age?

A. A valid and unexpired operator's or chauffeur's license issued by any state or territory of the U.S., or a valid and unexpired identification card or non-driver's license issued by any state or territory of the U.S., or a valid and unexpired identification card issued by any uniformed service of the U.S., or a valid and unexpired passport are all acceptable forms of proof of identification and age.

Q. May I accept a non-driver's license as proof of identification and age?

A. Yes, as long as it is valid and unexpired.

Q. May I accept a non-driver's license from another state?

A. Yes, as long as it is valid and unexpired.

Section 311.665 – Statement of No Tax Due

Q. Is a certificate of no tax due required before a liquor license will be issued?

A. Yes. Section 311.665 does not require a certificate of no tax due before any license can be issued. However, Section [144.083.4](#) states that the possession of a certificate of no tax due from the Department of Revenue is a prerequisite to the issuance or renewal of any state license required for conducting business where goods are sold at retail. Therefore, to be in compliance with this statute, the Division of Alcohol and Tobacco Control will continue to require the submission of a certificate of no tax due prior to the issuance or renewal of a state liquor license.

Section 311.915 – Out-of-State Manufacturers Event Permit

Q. What is an out-of-state manufacturers event permit?

A. A special permit that allows an out of state manufacturer of intoxicating liquor that is not licensed in the state of Missouri to participate in festivals, bazaars, or similar events. With this permit, an out of state manufacturer may ship up to 200 gallons of intoxicating liquor into the state to provide tastings or samplings at an event. This permit does not allow an out-of-state manufacturer to sell intoxicating liquor at an event.

Q. Who qualifies to get an out-of-state manufacturers event permit?

A. Out of state manufacturers who are not licensed in the state of Missouri. A copy of the state liquor manufacturer license must be provided along with the application for license.

Q. Is there a limit on the amount of intoxicating liquor that can be shipped into Missouri with the out-of-state manufacturers event permit?

A. Yes. The amount of intoxicating liquor shipped into the state under this permit shall not exceed 200 gallons.

Q. Do excise taxes apply to products shipped in the state with this permit? If so, who pays them?

A. Yes. Excise taxes will apply to products shipped in the state with this permit. Excise taxes shall be paid by the licensed manufacturer that holds a retail license and is organizing the event in the same manner as if it were produced or purchased by the manufacturer.

Q. What is the cost for the out-of-state manufacturers event permit?

A. An applicant shall complete a form provided by the supervisor of Alcohol and Tobacco Control and pay a \$25 fee before a special permit shall be issued.

Q. How long does the out-of-state manufacturers event permit last?

A. A permit issued under this section by the Division of Alcohol and Tobacco Control shall be valid for no more than 72 hours.

Q. What happens to any unused product once the permit expires?

A. Any unused product must be removed from the state or destroyed.

Q. Does the product have to be registered in the state?

A. No. Section [311.275](#) which requires label registration in Missouri is waived for this product at this event, but manufacturers must provide a COLA (certificate of label approval) from TTB.

ATC has posted this industry circular to answer questions that may revolve around Senate Bill 919. If you have additional questions regarding any of the above, please contact ATC for clarification or assistance at (573) 751-5443. Please check this site regularly for updates.