

## PROPOSED AMENDMENT

**11 CSR 70-2.140 All Licensees.** The Division of Alcohol and Tobacco Control is amending the purpose of this regulation. The division is also amending sections (3), (5), (6), (14), (16), (18), (19) and (21), and adding sections (1), (2), (4), (7), (8), (9), (10), (23), (24) and (25).

*PURPOSE: This rule establishes additional rules for the conduct of business in [both retail and wholesale] all establishments licensed by the supervisor regarding inspection, record keeping, storage, employment, sales, gambling, [and] consumption by minors, and other aspects of enforcement of Chapter 311, RSMo. This amendment clarifies the requirements for all licensees.*

**(1) Licensees are at all times responsible for satisfying and maintaining the qualifications for licensure in section 311.060, RSMo. Failure to do so may result in disciplinary action by the state supervisor.**

**(2) Licensees are at all times responsible for ensuring that the following individuals understand their responsibilities and obligations under Chapter 311, RSMo, and the regulations promulgated thereunder: the licensee; the managing officer, if applicable; any owners, shareholders, members, or partners; or any employee or agent who serves, sells, distributes, or furnishes intoxicating liquor on behalf of the licensee; and any third parties hired, contracted, or otherwise authorized by the licensee to serve, sell, distribute, furnish, or otherwise promote the sale or consumption of intoxicating liquor.**

**(3) Licensees [at all times] are at all times responsible for the conduct of their business and at all times are directly responsible for any act or conduct of any employee or agent on the premises or acting within the scope of their employment or agency relationship, and for any third parties hired, contracted, or otherwise authorized by the licensee to provide services or entertainment to customers or patrons which is in violation of the [Intoxicating] Liquor Control Law[s] or the regulations of the supervisor of alcohol and tobacco control.**

**(4) 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.**

**(C) This regulation applies to all areas on or about the licensed premise, including areas that have been rented to or reserved for temporary use by third parties.**

**[(2)] (5) The licensed premises and all portions of the building[s] 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 at any time to**

**ensure compliance with and enforcement of the provisions of Chapter 311, RSMo, and the regulations promulgated thereunder.** Licensees shall cooperate fully with the agents during the inspections.

~~[(3)]~~ **(6)** 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 **records pertaining to their business, including but not limited to** 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.]~~ **Except for state, county and city licenses, electronic records may be kept in lieu of hard copies, but must be readily accessible.**

(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, ***unless otherwise specified in statute.***

**(C) 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.**

**(7) Whenever units of measurement are set forth in the Liquor Control Law or the regulations promulgated thereunder, they are to be interpreted in accordance with their common usage in the imperial system and the metric system.**

**(8) Only one (1) person, partnership, or entity may be licensed by the supervisor to operate out of any particular premises.**

**(9) If any premises has multiple licenses for separate businesses in the same building or complex, then the building or complex 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 separate and distinct premises for each licensee. Each licensee shall have a separate entrance 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.**

**(10) If the division sends a written inquiry or request to a licensee at its address currently registered with the division, the licensee must respond in writing within thirty (30) days of the date of the division's written inquiry or request. Failing to provide a written response, withholding records, documents, or information relevant to the division's inquiry or request, or providing false information on a written response may result in disciplinary action.**

~~[(7)]~~ **(14) Requirements for employing minors** ~~[Licensees who]—~~

(A) **Licensees who [D]desire** to employ persons under the age of twenty-one (21) as authorized by section 311.300, RSMo, may apply to **the** 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.]* **Licensees who employ persons under the age of eighteen (18) may not allow those employees to sell, serve, or dispense, or assist in the sale, service or dispensing of intoxicating liquor. Employees under the age of eighteen (18) may not stock intoxicating liquor, arrange intoxicating liquor displays, accept payment for intoxicating liquor, sack intoxicating liquor for carryout, or otherwise handle intoxicating liquors.**

*[(9)]* **(16)** Any licensee may sponsor or allow promotional games, **raffles, and similar contests** to be conducted upon his/her licensed premises, provided that—

(A) The consumption of intoxicating liquor *[should]* **shall** not be related to or an element of a promotional game, **raffle, or similar** contest either directly or indirectly;

(B) Intoxicating liquor may not be a prize of a promotional game, **raffle, or similar** contest either directly or indirectly;

**1. Any licensee conducting a promotional game, raffle, or similar contest must notify any winners and recipients of cash prizes, gift cards, coupons, discounts, or other similar prizes that those prizes exclude the purchase of intoxicating liquor.**

**2. No licensee may knowingly accept cash prizes, gift cards, coupons, discounts, or other similar prizes from a promotional game, raffle, or similar contest hosted by a licensee for purchases of intoxicating liquor.**

(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 a licensed premises by the charitable organization.

**(F) The promotional game, raffle, or similar contests complies with all other aspects of Missouri law.**

*[(11)]* **(18)** No licensee, his/her agent, or employee may sell **or supply** 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. **Order of and payment for any intoxicating liquor must be made**

**directly to the licensee. For the purpose of this regulation, deliveries of intoxicating liquor previously purchased shall not constitute supply.**

**[(12)] (19)** No licensee, his/her agent, or employee may permit anyone under the age of twenty-one (21) years of age to consume **or possess** intoxicating liquor upon or about his/her licensed premises.

**[(14)] (21)** 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 Chapters 195 and 579, RSMo.

**(23)** No licensee shall use exterior signage or advertising that does not accurately reflect the licensee's legal name, business name or d/b/a, or trade name as stated on the state liquor license or on file with the division.

**(24)** Any licensee wishing to appeal any disciplinary action imposed by the state supervisor in accordance with section 311.691, RSMo, must do so before the effective date of the disciplinary order.

**(25)** The expiration, cancellation, revocation, reversion, surrender or termination in any manner of a license does not prevent the initiation or completion of any disciplinary proceeding against the licensee for actions that occurred prior to the expiration, cancellation, revocation, reversion, surrender or termination in any manner of the license.

*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. **Amended : Filed May 27, 2022\*\****