

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 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 fifteen (15) days of notification with sufficient funds, then beginning with the sixteenth 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 applicant may exercise the privileges of the license applied for prior to its issuance.
- (4) If application is made by a partnership, the application shall set out the names and residences of all the partners, whether they be active or silent, and be signed by all the partners. All partners shall qualify under the laws of Missouri for the license.
- (5) If application is made by an entity, the application shall set out the names and residences of any officers and all members or shareholders, whether they be active or silent, and be signed by the managing officer. The entity shall qualify under the laws of Missouri for the license.
- (6) No application will be considered which is not complete. No license may be granted to an applicant unless the applicant makes full, true, and complete answers to all questions in the application. Any false answer to any question in the application or omission of a material matter in the application, may be cause for denial of the application or discipline of any license issued pursuant to the application.
- (7) Violation of any oath taken by a licensee or any person(s) listed in the application in connection with the application for a license is cause for denial of the application or discipline of any license issued pursuant to the application.
- (8) If the supervisor of Alcohol and Tobacco Control has reason to believe that an applicant or any person(s) listed in the application has a criminal record and is not a person of good moral character, the supervisor may request that the applicant or person(s) listed in the application submit to being fingerprinted and fingerprints forwarded to the Department of Justice to ascertain if the applicant or person(s) listed in the application 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. Failure to present all applicable items may be cause for denial of the application or discipline of any license issued pursuant to the application.

(11) Every applicant for a liquor license of any kind must provide written notice to the supervisor of Alcohol and Tobacco Control if any fact or information changes from what is set forth in the application. Failure to provide written notice of such changes may be cause to deny the application or to discipline any license issued pursuant to the application.

(12) No license may be issued to the spouse, child(ren), step-child(ren), parent(s), stepparent(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.

(13) Ineligible Premises.

(A) No license may be issued for any premises that has been condemned by a federal, state, county, or local government entity, or has been declared a public and common nuisance by a court of law.

(B) No license may be issued for any premises that is transitory, moveable, or not permanently anchored to the ground, unless expressly permitted under Chapter 311, RSMo, or the regulations promulgated thereunder. This regulation does not apply to any applicant seeking a temporary license, except for temporary licenses issued under section 311.095, RSMo.

(C) No license may be issued for any premises that contains a private residence. Where an application seeks to license a portion of any building that contains a private residence, the building must have permanent partitions such that the licensed premises is separate and distinct from any residential areas. The licensed premises and the private residence must each have separate entrances and street addresses. This regulation does not apply to hotels, motels, bed and breakfasts, any premises that offers commercial overnight lodging, or any premises that does not receive or store intoxicating liquor on-site for commercial use.

(D) No license may be issued to any premises that includes, in whole or in part, the licensed premises of a current licensee. Where an applicant wishes to be licensed to operate on a premises that includes, in whole or in part, the licensed premises of a current licensee, the applicant must provide documentation showing that the current licensee either no longer owns or has a lease to operate out of the licensed premises or has agreed to surrender the premises in question to the applicant for the applicant's exclusive use. This regulation does not apply to any applicant seeking a temporary license, except for temporary licenses issued under section 311.095, RSMo.

(14) When the supervisor receives applications from two or more applicants seeking to operate out of the same premises, those applications will be processed in the order in which they were received. No application will be considered unless the previous applicant(s) have withdrawn its application or the supervisor has denied the previous applicant(s) and the previous applicant(s) have exhausted the administrative remedies found in section 311.691, RSMo.

(15) The supervisor of Alcohol and Tobacco Control, at his/her discretion and for good cause, may issue a temporary license for up to ten (10) days. A completed application with all required current documents and payment of license fees and any late charges must be in receipt of the

Division of Alcohol and Tobacco Control before a temporary license may be considered by the supervisor of Alcohol and Tobacco Control.

AUTHORITY: section 311.660, RSMo Supp. 2021. 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. Amended: Filed Jan. 25, 2022, effective Aug. 30, 2022.*

**Original authority: 311.660, RSMo 1939, amended 1989, 2021.*

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.