

**Title 11 – DEPARTMENT OF PUBLIC SAFETY
Division 70-Division of Alcohol and Tobacco control
Chapter 2-Rules and Regulations**

PROPOSED AMENDMENT

11 CSR 70-2.120 Retail Licensees

PURPOSE: To revise this section that establishes conditions of licensing and operation of premises, to reflect the elimination of Chapter 312 RSMo, regarding nonintoxicating beer. The Division's name will be changed to Division of Alcohol and Tobacco Control in all applicable sections. Legislative changes regarding the opening time changed to 9:00 a.m. (2003 in Section 311.097, RSMo) and the number of retail by drink licenses that can be held by one licensee was changed to five (2009 in Section 311.260).

(1) All retail intoxicating liquor *[and nonintoxicating beer]* licensees *[shall]* **are to** keep their licensed premises clean and sanitary and meeting minimum standards of the Missouri Department of Health **and Senior Services**, *as prescribed in 19 CSR 20-1.010]* and local sanitation laws and ordinances where applicable.

(2) If any *[retail licensee holds more than one (1) kind of]* **premises has multiple licenses** for separate businesses in the same building, then the building shall be partitioned in a manner that the partitions *[shall]* 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. *[There shall be a separate entrance in front of each of the premises and each of the premises shall have a different street address]* **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 *[and not in conjunction with each other]*. In addition, the business maintained on each of the premises *[must]* **shall** be manned and serviced by an entirely separate and distinct group of employees and there *[shall]* **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 *[must]* **are to** be maintained.

[(3) Hotels holding licenses in their names 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, shall comply with the provisions of section 311.330, RSMo, that is to say, they shall be easily visible from some hallway, lobby or mezzanine or other part of the hotel; provided further that hotels may dispense intoxicating liquors throughout the whole of the hotel.]

[(4)] **(3) Hotels and [M]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, [shall] compl[y]ies with the provisions of section 311.330, RSMo. [They shall be easily visible from some hallway, lobby or mezzanine or other part of the airport or terminal to or through which the public is invited. Provided further, that the applicant, at the time license is applied for, shall advise the supervisor of liquor control in writing of the number of bars to be operated and their locations.]**

[(5)] **(4) No [R]retailer[s shall not] may place or permit the placing of any object on or within the windows of premises covered by licenses which [shall] impedes or obstructs vision from the exterior into the interior. [This prohibition shall include illuminated signs, floral decorations, posters, placards, paintings or writings and all other similar devices or designs. In case venetian blinds are used in windows, slats shall be removed entirely across the blind so as to make a visible space beginning at four feet (4') from the sidewalk, and extending six feet (6') above the sidewalk, if the venetian blinds are kept closed. If the venetian blinds are kept open, it shall not be necessary to remove slats provided the slats at all times shall be adjusted horizontally so that the flat surfaces of the seats are parallel with the floor of the licensed premises. If curtains are used, they must be drawn apart so as to permit a clear view into the interior of the premises.]**

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

[(7)] **(6) No licensee [shall] 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 eight-six 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.**

[(8)] **(7) Licenses authorizing the retail sale of intoxicating liquor by the drink on Sunday between the hours of [11:00] 9:00 a.m. and midnight may be issued to all qualified applicants [for restaurant-bars as defined in section 311.097, RSMo] as defined in section 311.293, RSMo.**

(A) An applicant for a restaurant-bar license [first shall] **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 [restaurant-bar] **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 [and the description of the premises on each license shall be identical].

[(C) Applicants for a restaurant-bar license shall furnish with the application a certified statement signed by the applicant showing that at least fifty percent (50%) of the gross income of the restaurant-bar for the past one (1) year immediately preceding the application was derived from the sale of prepared meals or food consumed on the premises or a certified statement signed by the applicant showing an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on the premises. Applicants who have not been in business one (1) year shall have been in business at least ninety (90) days immediately preceding application for a restaurant-bar license and shall furnish a certified statement signed by the applicant showing that at least fifty percent (50%) of gross income of the restaurant-bar during the total period of time that it has been in business was derived from the sale of prepared meals or food consumed on the premises or a certified statement signed by the applicant showing that a projected experience based upon its sale of food during the preceding ninety (90) days would exceed not less than two hundred thousand dollars (\$200,000) per year.

(D) Each application for renewal of a restaurant-bar license shall be accompanied by a certified statement signed by the licensee showing that at least fifty percent (50%) of the gross income of the restaurant-bar for the past one (1) year immediately preceding the date of the renewal application or past calendar year immediately preceding the date of the renewal application was derived from the sale of prepared meals or food consumed on the premises or a certified statement signed by the applicant showing that the restaurant establishment's annual gross food sales for the past year immediately preceding the date of the renewal application or past calendar year immediately preceding the date of the renewal application shall not have been less than two hundred thousand dollars (\$200,000) per year. Applicants not in business one (1) year shall show projected experience based on total period of time in business.

(E) Applicants for a restaurant-bar license shall prepare and maintain the following records in order to substantiate the sales figures as presented in the certified statement, including, but not limited to: prenumbered guest checks, cash register tapes, bank statements and cancelled checks, and invoices for food and intoxicating liquor purchases.]

(9) [In order to qualify for the exemption to the limitation of three (3) licenses to sell intoxicating liquor at retail by drink for consumption on the premises, as provided in section 311.260, RSMo, licensees, at the time of seeking exemption, shall be required to—

(A) Make application to the supervisor for the exemption;

(B) Furnish with the application a certified statement signed by the licensee showing that at least fifty percent (50%) of the gross income of the restaurant-bar for which exemption is sought, for the past one (1) year immediately preceding the date of the application or past calendar year immediately preceding the date of the application was derived from the sale of prepared meals or food consumed on premises where sold or which has an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on premises where sold. Applicants who have not been in the restaurant-bar business one (1) year shall have been in business at least ninety (90) days immediately preceding application for the license and shall furnish a certified statement signed by the applicant showing that at least fifty percent (50%) of the gross income of the restaurant-bar for which exemption is sought, during the ninety (90)-day period was derived from the sale of prepared meals or food consumed on premises where sold or which has an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on premises where sold; and

*(C) Furnish with each application for renewal of any license which has been exempted from the limitation, a certified statement signed by the licensee showing that at least fifty percent (50%) of the gross income of the business for the past one (1) year immediately preceding the date of renewal application or past calendar year immediately preceding the date of the renewal application was derived from the sale of prepared meals or food consumed on the premises where sold or which has an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on premises where sold.] **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.***

(10) 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.

[(A) An applicant qualifying as a resort shall furnish with the application, a certified statement signed by the applicant showing that the establishment has at least thirty (30) rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least sixty percent (60%) of the gross income of which is derived from the sale of prepared meals or food.

(B) Each application for renewal of a resort license shall be accompanied by a certified statement signed by the applicant showing that at least sixty percent (60%) of the gross income from restaurant or similar facility for the past year immediately preceding the date of the renewal application or past calendar year immediately preceding the date of the renewal application was derived from the sale of prepared meals or food.

(C) Applicants qualifying for a resort license as a restaurant shall furnish with the application a certified statement signed by the applicant showing that the restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales. Applicants who have not been in business one (1) year shall have been in business at least ninety (90) days immediately preceding the application for a license and shall furnish a certified statement signed by the applicant, showing that a projected annual experience based upon its gross receipts during the ninety (90)-day period immediately preceding the date of application would exceed not less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales.

(D) Each application for renewal of a resort license as a restaurant shall be accompanied by a certified statement signed by the applicant showing that the restaurant establishment's annual gross receipts immediately preceding the date of the renewal application shall not have been less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales. Applicants for renewal who have not been in business one (1) year immediately preceding application for renewal shall furnish a certified statement signed by the applicant showing that a projected annual experience, based upon its gross receipts during the ninety (90)-day period immediately preceding the date of application, would exceed not less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such receipts from nonalcoholic sales.

(E) Applicants for a resort license shall prepare and maintain [the following] records in order to substantiate the sales figures as presented in the certified statement, including, but not limited to[*: prenumbered guest checks, cash register tapes,*] bank statements and cancelled checks, and invoices for food and intoxicating liquor purchases.

AUTHORITY: section 311.660, RSMo [2000] 2018. 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 October 10, 2018*

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

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level in Jefferson City, Mo 65101 or by facsimile at 573-526-4540, or via email at Karen.Dorton@dps.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*