

## 11 CSR 70-2.140 All Licensees

*PURPOSE: This rule establishes additional rules for the conduct of business in both retail and wholesale establishments regarding inspection, record keeping, storage, employment, sales, gambling, and consumption by minors.*

(1) Licensees at all times are responsible for the conduct of their business and at all times are directly responsible for any act or conduct of any employee on the premises which is in violation of the Intoxicating Liquor Control Laws or the regulations of the supervisor of alcohol and tobacco control.

(2) The licensed premises and all portions of the buildings 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. Licensees shall cooperate fully with the agents during the inspections.

(3) 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 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.

(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.

(4) No licensee may buy or accept any warehouse receipt unless the seller or donor of the receipt first acquires the written permission of the supervisor of alcohol and tobacco control to sell or give away the receipt.

(5) No licensee may have consigned to him/her, receive or accept the delivery of, or keep in storage any intoxicating liquors upon any premises other than those described in his/her license without first having obtained the written permission of the supervisor of alcohol and tobacco control.

(6) No wholesale or retail licensee may sell or possess any spirituous liquor in any package or container holding less than fifty (50) milliliters (1.7 ounces) or more than one (1) gallon. No wholesale or retail licensee may sell or possess any wine in any package or container holding less than one hundred (100) milliliters (3.4 ounces) or more than fifteen and one-half (15 1/2) gallons.

(7) Licensees who—

(A) Desire to employ persons under the age of twenty-one (21) as authorized by section 311.300, RSMo, may apply to 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.

(8) No person licensed by the supervisor of alcohol and tobacco control may allow upon his/her licensed premises any self-service, coin-operated, mechanical devices, or automatic dispensers for the purpose of selling or dispensing intoxicating liquor except as pursuant to section 311.205, RSMo.

(9) Any licensee may sponsor or allow promotional games to be conducted upon his/her licensed premises, provided that—

(A) The consumption of intoxicating liquor should not be related to or an element of a promotional game or contest either directly or indirectly;

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

(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 licensed premises by the charitable organization.

(10) No licensee may employ on or about the licensed premises any person who has been convicted since the ratification of the twenty-first amendment of the Constitution of the United States of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor; or any person who has had a license revoked under Chapter 311, RSMo, unless five (5) years have passed since the revocation of the license.

(11) No licensee, his/her agent, or employee may sell 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.

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

(13) No licensee, his/her agent, or employee may allow upon or about the licensed premises solicitation for the purposes of prostitution or other immoral activities by any person.

(14) 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 Chapter 195, RSMo.

(15) No licensee, his/her agent, or employee may mix or pour, or permit to be mixed or poured, any intoxicating liquor directly into any person's mouth upon or about the licensed premises.

*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.*

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

**State ex rel., Glendinning Co. v. Letz**, 591 SW2d 92 (Mo. App. 1979). *The Supervisor of Liquor Control may prohibit gambling on licensed premises by rule despite the general preemption language contained in the criminal code at section 572.100, RSMo.*

**Op. Atty. Gen. No. 178, Wilson (10-18-79)**. *A person convicted of supplying intoxicating liquor to a minor does not necessarily violate section 311.060, RSMo (regarding licensing) or 11 CSR 70-2.140(13) (regarding employment).*

**State ex rel. Letz v. Riley**, 559 SW2d 631 (Mo. App. 1977). *Despite the issuance by the attorney general of a "no action" letter stating that certain games in theory were not violative of Chapter 563, RSMo, the doctrine of equitable estoppel was not available to support an injunction restraining the supervisor of the Division of Liquor Control from enforcing Liquor Control Regulations 15(k) (prohibiting any licensee from allowing any sort of gambling upon licensed premises) and 25 II(c)(1)(g) (restricting advertisement of intoxicating liquor and nonintoxicating beer).*

**Op. Atty. Gen. No. 167, Moran (7-7-66)**. *A licensee of the Department of Liquor Control is not violating the rules and regulations of the department by having on his/her licensed premises a pinball machine of the type designated by federal statute as a gambling device per se and requiring a \$250 Coin-Operated Gaming Device Stamp but on which the machine only awards free games for replay. It is a violation of regulation 15(1) (now covered by 11 CSR 70-2.140(12)) of the rules of the Department of Liquor Control if patrons using the pinball machines are actually paid off in money or merchandise by the liquor licensee or if patrons using the pinball machines actually wager money or property among themselves on the outcome of games played and the licensee allows such gambling.*