
LIQUOR IN MISSOURI

YOUR LOCAL GOVERNMENT QUESTIONS ANSWERED

by Jennifer Baird

Missouri is home to approximately 130 wineries¹ and approximately 88 breweries². In fact, a 2013 study published by the Mercatus Center at George Mason University ranked Missouri third in the nation in alcohol freedom, noting Missouri's "alcohol regime is one of the least restrictive in the United States, with no blue laws and taxes well below average."³



the statute prohibits.⁴ Missouri has enacted the Liquor Control Laws that regulate the sale and distribution of alcohol "in order to promote responsible consumption, combat illegal underage drinking, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed alcohol producers, importers, distributors and retailers."⁵ However, a city may fix standards to be met before issuing a liquor license so long as

the ordinance does not conflict with the Liquor Control Laws.⁶ In summary, a city cannot prohibit businesses that sell liquor; but, a city can require that the business obtain a local liquor license in addition to a state liquor license.

However, a city's ability to regulate the selling of intoxicating liquor within the city may have been complicated with the adoption of SB 919, signed into law on July 1, 2016.

The most significant change that SB 919 made as it relates to local government, is that the Division of Alcohol and Tobacco Control (Liquor Control) may not disapprove an application for a liquor license for failing to possess a local liquor license.⁷ In the past, Liquor Control would not issue a state liquor license to a business that did not first have a local liquor license. This gave cities some leverage over businesses to comply with the local licensing requirements because if the city did not issue a local liquor license, then the business would not be able to

This year, the Missouri Legislature adopted Senate Bill 919 (SB 919) that enacted several changes regarding intoxicating liquor. These changes appear to further reduce the restrictions for manufacturing and selling liquor in Missouri (i.e. microbreweries can now sell all kinds of intoxicating liquor and consumption may occur on the premises of the microbrewery or in close proximity to it; the law adds non-driver's licenses to the list of types of identification that may be used as proof of age to purchase liquor; and an out-of-state manufacturer who is not licensed in Missouri may receive a special permit to participate in festivals, bazaars and other events). The purpose of this article is to provide a summary of the most frequently asked questions regarding the governing body's ability to regulate alcoholic beverages, Sections 311.010 et seq., RSMo, (Liquor Control Laws).

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IS THE CITY REQUIRED TO ISSUE A LIQUOR LICENSE?

One of the most common questions asked is whether a governing body can deny issuing a liquor license for no other apparent reason other than the city does not want businesses that sell liquor. The short answer is "no." In general, an ordinance may not prohibit what the statute permits or permit what

get a state liquor license either. That is about to change! Now, businesses will be able to get a state liquor license without first having to obtain a local liquor license. Cities will need to be prepared for situations in which a business already has a state liquor license but needs the local license to sell intoxicating liquor. What happens if the city denies the application? Is the city now prohibiting what the state allows? In most cases, this probably will not be an issue, but it is something to consider if your city denies a liquor license to a business that already has its state liquor license.

WHAT ARE THE QUALIFICATIONS FOR SOMEONE TO OBTAIN A LIQUOR LICENSE?

In general, under the Liquor Control Law, the person granted the license must be of "good moral character" and a "qualified voter and a taxpaying citizen of the county, town, city or village."⁸ A person is defined as any "individual, association, joint stock company, syndicate, copartnership, corporation, receiver, trustee, conservator, or other officer appointed by any state or federal court."⁹ What happens if a corporation or partnership is applying for the liquor license? The managing officer of the corporation or partner of the partnership must be of "good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village."¹⁰ Liquor Control is charged with promulgating rules to enforce the provisions of qualifications.¹¹ If someone has been convicted of a crime, it does not mean they have bad moral character and are therefore prohibited from obtaining a liquor license. Further, what if the individual lives in the county, but outside city limits? Is a city required to grant the license if all other conditions have been met? The court in the State ex rel. Klein v. Balsiger reasoned that if the legislature had intended that the only qualification be that the individual live in the county, then there would be no need to add "town, city or village" to the statute.¹²

WHAT ARE THE RULES FOR SELLING ALCOHOL NEAR SCHOOLS AND CHURCHES? HOW IS THE DISTANCE MEASURED?

In summary, no license shall be granted for the sale of liquor within 100 feet of any school or church unless the applicant obtains consent in writing



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from the governing body.¹³ Further, the governing body may by ordinance prohibit the granting of a liquor license for the sale of intoxicating liquor within a distance of up to 300 feet of any school or church.¹⁴ However, if a school or church locates within 100 feet of a business that has a valid license to sell intoxicating liquor, said business's license shall not be denied renewal simply because the business is now within 100 feet of a school or church.¹⁵

In regards to how to measure the distance between the business that is selling alcohol and a church or school depends in part on how the city's ordinance is written. If the ordinance is general, i.e. no liquor license shall be granted for the sale of intoxicating liquor within 300 feet of any school or church, then the court will look at how the applicant described the premises for which intoxicating liquor may be sold. For example, in State ex rel. Casey's General Stores, Inc. v. Kissinger, a portion of Casey's store and property were located within 300 feet of a church that was not allowed under the City's ordinance.¹⁶ Casey's application sought a license to sell liquor that encompassed its entire property, including the parking lot.¹⁷ Although Casey's tried to argue that the distance should be measured from portal-to-portal, the City's ordinance was not specific as to how the distance is measured, only that

no alcohol shall be sold within 300 feet of a school or church.¹⁸ Further, based on Casey's description of the premises, alcohol could be sold anywhere on the property, even those portions of the property that were within 300 feet of the church.¹⁹

WHEN CAN A BUSINESS BEGIN SELLING ALCOHOL ON SUNDAYS?

According to Liquor Control, Missouri has allowed some form of selling alcohol on Sundays since 1971.²⁰ In 2003, there was a big push in the legislature to allow for the sale of alcohol on Sundays even earlier because of various sporting events, etc.²¹ SB 919 did not make any additional changes to the sale of liquor on Sundays. In general, the sale of liquor by the drink is permitted on Sundays in St. Louis and Kansas City from 9 a.m. until midnight.²² The Liquor Control Law also allows any other establishments (other than an establishment that may apply for a license in St. Louis or Kansas City) to sell intoxicating liquor on Sundays provided the person applying for a Sunday license possess the qualifications to sell liquor at retail (i.e. good moral character, qualified legal voter and tax paying citizen of the city, etc.)²³ If so, then the business can sell on Sundays from 9 a.m. until midnight. *(continued next page)*

HOW MUCH CAN A CITY CHARGE FOR A LICENSE?

The Liquor Control Law gives a city the authority to regulate and control the sale of intoxicating liquor within its boundary.²⁴ Further, cities can fix the amount to charge for licenses issued to manufacturers, distillers, brewers, wholesalers and retailers of all intoxicating liquor; however, the license fee cannot exceed one and one-half times the amount required to be paid for the state liquor license permit.²⁵□

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Endnotes:

1 Missouri Wine and Grape Board, Explore Missouri Wine Country, (updated June 2016) <http://missouriwine.org/sites/default/files/Missouri%20Wineries-%20Print%20All_6.28.2016.pdf>.

2 Brewers Association, Missouri Breweries, (visited July 29, 2016) <<https://www.brewersassociation.org/directories/breweries/>>.

3 William P. Ruger & Jason Sorens, Freedom in the 50 States – An Index of Personal and Economic Freedom, at 158-159, (Mercatus Center at George Mason Univ. 2013).

4 Crackerneck Country Club, Inc. v. City of Independence, 522 S.W.2d 50, 51 (Mo. App. W.D. 1974).

5 See § 311.015 RSMo Supp. 2015.

6 State el rel. Payton v. City of Riverside, 640 S.W.2d 137, 141 (Mo. App. W.D. 1982).

7 § 311.220, RSMo Supp. 2015.

8 § 311.060.1, RSMo Supp. 2015.

9 § 311.030, RSMo Supp. 2015

10 § 311.060.1, RSMo Supp. 2015
11 § 311.060.2(2), RSMo Supp. 2015

12 State ex rel. Klein v. Balsiger, Mayor, et al., 151 S.W.2d 521, 523 (Mo. App. E.D. 1941)

13 § 311.080, RSMo Supp. 2015

14 Id.

15 Id.

16 State ex rel. Casey's General Stores, Inc. v. Kissinger, 926 S.W.2d 191 (Mo. App. S.D. 1996).

17 Id.

18 Id.

19 Id.

20 David A. Lieb, Missouri Lawmakers Approve Earlier Sunday Alcohol Sales, Southeast Missourian, May 15, 2003 <<http://www.semissourian.com/story/109166.html>>.

21 Id.

22 § 311.089, RSMo Supp. 2015.

23 §§ 311.293, 311.060, RSMo Supp. 2015.

24 § 311.220.2, RSMo Supp. 2015.

25 § 311.220.1, RSMo Supp. 2015.

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