

INTOXICATING LIQUOR: : A person may not manufacture intoxicating  
: liquor for personal use in his home with-  
LICENSE: : out obtaining the license and paying the  
: fees required by Sections 311.180 or  
: 311.190, RSMo 1949.  
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December 14, 1954

Honorable Hollis M. Ketchum  
Supervisor  
Department of Liquor Control  
Jefferson City, Missouri

Dear Mr. Ketchum:

By letter dated October 25, 1954, you requested  
an opinion of this office as follows:

"I have had several inquiries if a resi-  
dent of Missouri may permit the natural  
fermentation of fruit juices in the home  
for the exclusive use of the occupants  
of the home and their guests, tax-free  
and without a license. It is my under-  
standing, the Federal Government permits  
200 gallons to be made per year, tax-  
free, by the head of the family for home  
use, so long as the respective State  
Statutes do not prohibit same.

"May I have your official opinion if a  
resident of the State of Missouri may  
permit the natural fermentation of fruit  
juices in the home for the exclusive use  
of the home and the guests, tax-free and  
without a license."

All statutory citations are Revised Statutes of  
Missouri, 1949.

We presume that the "natural fermentation of fruit  
juices" will result in intoxicating liquor, as defined  
by Section 311.020. Said section reads:

"The term 'intoxicating liquor' as used  
in this chapter, shall mean and include

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alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of three and two-tenths per cent of alcohol by weight."

Section 311.050 makes it unlawful to manufacture intoxicating liquor without a license. That section reads:

"It shall be unlawful for any person, firm, partnership or corporation to manufacture, sell or expose for sale in this state intoxicating liquor, as defined in sections 311.020, in any quantity, without taking out a license."

(Emphasis ours.)

A license to manufacture intoxicating liquor may be issued pursuant to Section 311.180 which reads:

"1. No person, partnership, association of persons or corporation shall manufacture, distill, blend, sell or offer for sale intoxicating liquor within this state at wholesale or retail, or solicit orders for the sale of intoxicating liquor within this state without procuring a license from the supervisor of liquor control authorizing them so to do. For such license there shall be paid to and collected by the director of revenue annual charges as follows:

"(1) For the privilege of manufacturing and brewing in this state malt liquor containing not in excess of five per cent of alcohol by weight the sum of two hundred dollars;

"(2) For the privilege of manufacturing in this state intoxicating liquor containing not in excess of twenty-two per cent

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of alcohol by weight the sum of one hundred dollars;

"(3) For the privilege of manufacturing, distilling or blending intoxicating liquor of all kinds within this state the sum of two hundred dollars;

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"2. Provided further, however, that solicitors, manufacturers and blenders of intoxicating liquor shall not be required to take out a merchant's license for the sale of their products at the place of manufacture or in quantities of not less than one gallon."

The license fees for the manufacture of light wines under certain limitations are set out by Section 311.190. That section provides:

"For the privilege of manufacturing, in quantities not to exceed five thousand gallons, light wines containing not in excess of fourteen per cent of alcohol by weight exclusively from grapes, berries and other fruits and vegetables grown in the state of Missouri, there shall be paid to and collected by the director of revenue, in lieu of the charges provided in section 311.180, a license fee of five dollars for each five hundred gallons, or fraction thereof. A manufacturer licensed under this section shall be privileged to sell to consumers at the winery in lots not to exceed four and seven-eighths gallons, and to sell to duly licensed wholesalers or duly licensed retail dealers in lots of five gallons or more."

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The above statutes prohibit the manufacture of intoxicating liquors unless the manufacturer pays the required fees and is properly licensed. Persons manufacturing intoxicating liquors for their personal use are not exempted from the operation of the statute.

#### CONCLUSION

It is, therefore, the opinion of this office that a person may not manufacture intoxicating liquor for personal use in his home without obtaining the license and paying the fees required by Sections 311.180 or 311.190, RSMo 1949.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON  
Attorney General

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