

The 2:00 a.m. On-Sale Closing Hour and Other Liquor Law Changes

The legislature in 2003 made some of the most far-reaching changes in liquor law since Sunday liquor was legalized more than 30 years ago, including allowing on-sale of alcoholic beverages until 2:00 a.m.

On-sale closing hours

The 2003 omnibus liquor bill moves back from 1:00 a.m. to 2:00 a.m. the hour at which on-sale of intoxicating liquor and 3.2 beer must cease. (“On-sale” is sale for consumption on the premises only.) The same change is made for the hour at which establishments with “consumption and display” permits (bottle clubs or set-ups) must stop consumption on the premises. The effective date of the change is July 1, 2003.

The 1:00 a.m. hour had been in effect since the 1940s.

Although the hour set in law is often referred to as the “closing hour,” state law does not require establishments to close their doors at that hour but only to stop selling alcohol. A requirement to actually close may be included in local ordinances.

The bill made no changes in the hours for off-sale establishments (package stores).

Local authority to set other hours

Under present law, cities and counties may set more restrictive hours for alcoholic beverages than state law allows. So local governments have the right to retain the 1:00 a.m. closing hour for establishments within their jurisdiction. Cities cannot allow any on-sale of alcohol later than 2:00 a.m.

A city that has already adopted an ordinance that sets a 1:00 a.m. closing time will retain that closing time unless it decides to repeal or amend its ordinance.

Any local government that sets on-sale hours that differ from state law must apply those hours equally to intoxicating liquor and 3.2 beer.

Permits

In order to continue on-sales until 2:00 a.m., a licensed establishment must obtain a permit from the state Department of Public Safety. The permit is in addition to the establishment's on-sale license issued by the city or county. The permit is valid for a year. The fee for on-sale retailers of intoxicating liquor is based on the establishment's gross receipts from alcohol sales in the previous year:

- ▶ Up to \$100,000 in gross receipts, \$200
- ▶ Over \$100,000 but not over \$500,000 in gross receipts, \$500
- ▶ Over \$500,000 in gross receipts, \$600

For intoxicating liquor establishments that have been in business less than a year, 3.2 beer licensees, and consumption and display permit holders, the fee is \$200.

The legislature enacted the permit requirement in order to raise money to partly offset the cost of additional troopers for the State Patrol. A study by the Revenue Department will determine if the new hours generate at least \$3.85 million annually in new state tax revenue. If the study shows that they do, the permit requirement will be repealed beginning July 1, 2005.

Local license limits

For many years state law has limited the number of on-sale intoxicating liquor licenses that cities could issue. First-class cities (Minneapolis, St. Paul, and Duluth), for instance, were allowed to issue one license for every 1,500 persons up to a maximum of 200. Cities wanting to issue more licenses than state law allowed had to come to the legislature for authorization.

The 2003 omnibus liquor bill exempted on-sale licenses to restaurants and hotels from these limits. Since almost all licenses for which legislative approval had been sought in past years fall into one of these categories, the result is to all but end the practice of seeking additional licenses from the legislature. Special liquor laws to allow licenses to establishments that couldn't be licensed under general law for other reasons are likely to continue.

Brewpubs selling at off-sale

The omnibus liquor bill also allowed "brewpubs" (restaurants that brew beer on the premises) to sell their products in bottles for consumption off the premises. Sales can only be made in 64-ounce bottles known as "growlers" that must be sealed on the premises. Brewpubs can sell no more than half their annual maximum output of 3,500 barrels at off-sale, up to a maximum of 500 barrels. Their off-sale hours would be the same as for package stores.

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