

LIQUOR:  
LICENSES:  
CRIMINAL LAW:  
CONTRABAND:

The possession of "winemaking kits" fit for the use in the unlawful manufacture of intoxicating liquor, by business establishments or individuals who are not licensed by the state to manufacture intoxicating liquor, constitutes a violation of the Missouri Liquor Control law. However, this law does not prohibit the possession of winemaking equipment that is held for sale exclusively to businesses or individuals holding a state license to manufacture wine.

OPINION NO. 47

May 22, 1972

Mr. Courtney Goodman, Supervisor  
Department of Liquor Control  
Broadway State Office Building  
Jefferson City, Missouri 65101



Dear Mr. Goodman:

This is in response to the request made by your predecessor for our opinion concerning the possession of winemaking kits by business establishments or individuals not licensed by the State of Missouri to manufacture intoxicating liquor.

Specifically, you have asked:

"Does the possession of winemaking kits by business establishments or individual who are not licensed by the State to manufacture intoxicating liquor constitute a violation of the Missouri Liquor Control Law?"

For the purposes of this opinion, it is assumed that the "winemaking kits" in question are held for sale to the general public by retail establishments, and are designed for home rather than commercial use. It is our understanding that these "winemaking kits" are not held for sale exclusively to licensed manufacturers of intoxicating liquor. It is also assumed that the "winemaking kits" may be used to manufacture intoxicating liquor as defined by Section 311.020, RSMo 1969. This section reads as follows:

"The term 'intoxicating liquor' as used in this chapter, shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or

Mr. Courtney Goodman

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 percent of alcohol by weight."

Section 311.050, RSMo 1969, 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 section 311.020, in any quantity, without taking out a license."  
(Emphasis added)

This office has formerly held that a person may not manufacture intoxicating liquor for personal use in his home without obtaining a license and paying the fees required by Sections 311.180 or 311.190, RSMo 1969. (Opinion of the Attorney General No. 48, Ketchum, 1954).

It is noted that the "winemaking kits" you refer to are advertised for home use and some of these advertisements make the representation that it is lawful to manufacture wine in the home without a state license. This, of course, is a misrepresentation of the law.

Section 311.810, RSMo 1969, in pertinent part, provides:

". . . provided, that all persons engaged in the work of unlawfully manufacturing intoxicating liquors in any building, structure, motor vehicle or other conveyance, or at any place as defined in this chapter, or of keeping, storing or selling intoxicating liquor in violation of this law or of any of the laws of this state, or assisting in any way in such unlawful manufacture, production, keeping, storing, selling or transporting same, and all persons in possession or control, whether owners or not, of any still, doubler, worm, worm tub, mash, mash tub, fermenting tub, vessel, fixture or equipment used or fit for use in the unlawful manufacture or production of intoxicating liquor, . . . shall be deemed equally guilty of a violation of this law; . . ."  
(Emphasis added)

Mr. Courtney Goodman

This statute further provides that it shall be the duty of any officer to seize equipment fit for use in the unlawful manufacture of intoxicating liquor as follows:

". . . It shall be equally the duty of any officer to seize and hold without first obtaining a search warrant, any intoxicating liquor, still, doubler, worm, worm tub, mash, mash tub, fermenting tub, vessel, fixture or equipment, or any part or parts thereof, which he may find in use or fit for use in the unlawful manufacture of intoxicating liquor and to report same immediately to the prosecuting attorney of the county in which such liquor, articles and equipment may be found; . . ." (Emphasis added)

It is the opinion of this office that Section 311.810 operates to prohibit the possession of "winemaking kits" by businesses or persons not licensed to manufacture intoxicating liquor. Moreover, Section 311.810 declares such articles to be contraband as follows:

". . . All intoxicating liquor unlawfully manufactured, . . . and the containers thereof and all equipment used or fit for use, in the unlawful manufacture of intoxicating liquor, and which are found at or about any still or outfit for the unlawful making or manufacture of intoxicating liquor, are hereby declared contraband, . . ." (Emphasis added)

The Missouri Liquor Control law, however, does not prohibit the possession of winemaking equipment that is held for sale exclusively to businesses or individuals holding a state license to manufacture wine.

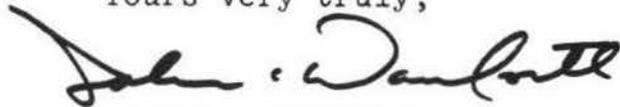
#### CONCLUSION

It is the opinion of this office that the possession of "winemaking kits" fit for the use in the unlawful manufacture of intoxicating liquor, by business establishments or individuals who are not licensed by the state to manufacture intoxicating liquor, constitutes a violation of the Missouri Liquor Control law. However, this law does not prohibit the possession of winemaking equipment that is held for sale exclusively to businesses or individuals holding a state license to manufacture wine.

Mr. Courtney Goodman

The foregoing opinion, which I hereby approve, was prepared by my assistant, Richard S. Paden.

Yours very truly,

A handwritten signature in cursive script, reading "John C. Danforth". The signature is written in black ink and is positioned above the typed name.

JOHN C. DANFORTH  
Attorney General