

AMENDED

COUNCIL BILL NO. 2006-001

ORDINANCE NO. 2006-014

AN ORDINANCE amending Article I. of Chapter 10, by repealing Section 10-8, Purchase or possession by underage persons., of the Joplin City Code, and enacting a new Section 10-8, Purchase or possession by underage persons., in lieu thereof; dealing generally with prohibiting the purchase of intoxicating liquor and the possession thereof by underage persons.

WHEREAS, new Missouri law now allows for the Government to prove the existence of a violation by showing the alleged offender consumed alcohol by granting evidentiary value to the use of a breathalyzer on the individual or by a showing the individual was visibly intoxicated; and,

WHEREAS, the new law also shifts the burden of proof on manufactured-sealed containers of alcohol from the Government to the alleged offender in terms of the container's contents; and,

WHEREAS, it is necessary to repeal Section 10-8 of the Joplin City Code and enact a new Section 10-8 of the Joplin City Code, in lieu thereof, so that the City Code is consistent with the laws of the State of Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That Article I. of Chapter 10, Section 10-8, Purchase or possession by underage persons., of the Joplin City Code be repealed, and a new Section 10-8, Purchase or possession by underage persons., is enacted in lieu thereof, to read as follows:

"Sec. 10-8. Purchase or possession by underage persons.

1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in Section 311.020 or who is visibly intoxicated as defined in Section 577.001, RSMo, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. For purposes of prosecution under this section or any other provision of this Article involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The

alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

2. For purposes of determining violations of any provision of this Article, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor."

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this 20th
day of February, 2006.

Phil G. Stinnett, Mayor

ATTEST:
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:
Brian W. Head, City Attorney