



1997 ASSEMBLY BILL 947

March 24, 1998 - Introduced by Representative BALDWIN. Referred to Joint survey committee on Tax Exemptions.

1 **AN ACT to renumber** 125.035 (2); **to amend** 125.035 (4) (a), 125.26 (2) (a), 125.29
2 (4) and 125.32 (3) (d); and **to create** 125.035 (2) (b), 125.26 (2) (c), 125.28 (2) (b)
3 1. e., 125.29 (5), 125.295, 125.32 (3) (cm), 125.55 (1) (c) and 139.04 (10) of the
4 statutes; **relating to:** creating a permit that authorizes the furnishing of
5 ingredients and equipment to be used to manufacture fermented malt
6 beverages on the permittee's premises, authorizing certain combinations of
7 alcohol beverage permits, and creating an occupational tax exemption.

Analysis by the Legislative Reference Bureau

Current law prohibits any person from brewing fermented malt beverages (beer) for sale or transport, and from possessing and storing beer on the premises where brewed unless that person holds a brewer's permit issued by the department of revenue. However, no permit is required for a person to brew, possess or store beer at home for personal consumption if the person receives no compensation. Also under current law, no person in charge of a public place may allow the consumption of beer on the premises unless that person holds a retail license or permit authorizing the consumption.

This bill creates a permit that authorizes the permittee to furnish ingredients and equipment for use on the permittee's premises by a customer of legal drinking age to brew beer for consumption on or off the premises where brewed

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(brew-on-premises permit). The bill limits the volume of beer that any customer may brew in a year, prohibits the sale of such beer, prohibits the permittee from physically assisting the customer with the brewing and specifies the hours of operation of the premises. The bill also exempts beer that is brewed by the customer on the permittee's premises from the state occupational tax on brewing.

Also under current law, with certain exceptions, a person is immune from civil liability arising from the act of procuring beer for or selling, dispensing or giving away beer to another person. The bill grants civil immunity to a permittee for liability for any injury or property damage caused by a person who consumes beer on the premises where brewed. This civil immunity does not apply to a person who knowingly allows the consumption of beer on premises under that person's control by a person who has not attained the legal drinking age.

The bill also authorizes a person who holds a brew-on-premises permit to brew beer for sale to be consumed on the premises where brewed and prohibits such a person from selling such beer at wholesale.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 125.035 (2) of the statutes is renumbered 125.035 (2) (a).

2 **SECTION 2.** 125.035 (2) (b) of the statutes is created to read:

3 125.035 (2) (b) A person holding a permit issued under s. 125.295, and any
4 agent or employe of such a permittee, is immune from civil liability arising out of the
5 consumption of fermented malt beverages by another person on premises described
6 in the permit if the fermented malt beverages were brewed on the premises.

7 **SECTION 3.** 125.035 (4) (a) of the statutes is amended to read:

8 125.035 (4) (a) In this subsection, "provider" means a person, including a
9 licensee or permittee, who procures alcohol beverages for or sells, dispenses or gives
10 away alcohol beverages to an underage person in violation of s. 125.07 (1) (a), or who
11 allows the consumption of alcohol beverages by an underage person in violation of

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1 s. 125.07 (1) (a) on premises that are described in a permit issued under s. 125.295
2 and that are under that person's control.

3 **SECTION 4.** 125.26 (2) (a) of the statutes is amended to read:

4 125.26 (2) (a) Class "B" licenses may be issued to any person qualified under
5 s. 125.04 (5). Such licenses may not be issued to any person acting as agent for or
6 in the employ of another except that this restriction does not apply to a hotel or
7 restaurant which is not a part of or located on the premises of any mercantile
8 establishment, or to a bona fide club, society or lodge that has been in existence for
9 at least 6 months before the date of application. A Class "B" license for a hotel,
10 restaurant, club, society or lodge may be issued in the name of an officer who shall
11 be personally responsible for compliance with this chapter. A Class "B" license may
12 be issued to a person who holds a brew-on-premises permit issued under s. 125.295.

13 **SECTION 5.** 125.26 (2) (c) of the statutes is created to read:

14 125.26 (2) (c) Notwithstanding s. 125.33 (1) (a), a Class "B" license may be
15 issued to any person who holds a brew-on-premises permit. A Class "B" license
16 issued under this paragraph shall cover only those premises described in the
17 brew-on-premises permit.

18 **SECTION 6.** 125.28 (2) (b) 1. e. of the statutes is created to read:

19 125.28 (2) (b) 1. e. A brew-on-premises permit issued under s. 125.295.

20 **SECTION 7.** 125.29 (4) of the statutes is amended to read:

21 125.29 (4) MULTIPLE LICENSES. Notwithstanding ss. 125.26 (2) and 125.28 (2),
22 a brewer may hold a wholesaler's license issued under s. 125.28 and, a Class "B"
23 license as provided under s. 125.31 and, if the brewer does not hold a wholesaler's
24 license, a brew-on-premises permit issued under s. 125.295.

25 **SECTION 8.** 125.29 (5) of the statutes is created to read:

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1 125.29 (5) EXCEPTION. For purposes of this section, a person who brews
2 fermented malt beverages on premises described in a brew-on-premises permit is
3 not considered to be a brewer.

4 **SECTION 9.** 125.295 of the statutes is created to read:

5 **125.295 Brew-on-premises permits.** (1) The department shall issue
6 brew-on-premises permits which authorize the permittee to provide ingredients
7 and equipment for use by a person who has attained the legal drinking age to
8 manufacture fermented malt beverages on the premises. A brew-on-premises
9 permit may be issued only to a person who holds a valid certificate issued under s.
10 73.03 (50) and who is qualified under s. 125.04 (5), except a person acting as an agent
11 for or in the employ of another.

12 (2) (a) No permittee or agent or employe of a permittee may physically assist
13 in the manufacture, bottling or transport of the fermented malt beverages.

14 (b) No person may manufacture more than 100 gallons or, if 2 or more persons
15 of legal drinking age reside in that person's household, 200 gallons of fermented malt
16 beverages in any year on premises described in a permit issued under this section.
17 No person may sell fermented malt beverages manufactured on premises distributed
18 in a permit issued under this section.

19 (3) Notwithstanding s. 125.09 (1), a person in charge of premises described in
20 a permit issued under this section may allow a person who has attained the legal
21 drinking age to consume fermented malt beverages on the premises if the fermented
22 malt beverages were manufactured on the premises.

23 **SECTION 10.** 125.32 (3) (cm) of the statutes is created to read:

24 125.32 (3) (cm) Notwithstanding pars. (a) and (b) and s. 125.68 (4), no premises
25 for which a brew-on-premises permit is issued may remain open between the hours

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1 of 10 p.m. and 11 a.m. on Monday to Friday. On Saturday and Sunday, the closing
2 hours shall be between 10 p.m. and 9 a.m.

3 **SECTION 11.** 125.32 (3) (d) of the statutes is amended to read:

4 125.32 (3) (d) A municipality may, by ordinance, impose more restrictive hours
5 than those provided in par. (am) ~~or~~, (b) or (cm), but may not impose different hours
6 than those provided in par. (a) or (c).

7 **SECTION 12.** 125.55 (1) (c) of the statutes is created to read:

8 125.55 (1) (c) A combination brew-on-premises and brewer's permit.

9 **SECTION 13.** 139.04 (10) of the statutes is created to read:

10 139.04 (10) The removal for consumption of fermented malt beverages
11 manufactured on premises described in a permit issued under s. 125.295. This
12 subsection does not apply to fermented malt beverages that are manufactured under
13 a brewer's permit issued under s. 125.29 and removed for resale.

14 (END)