



2007 ASSEMBLY BILL 774

February 8, 2008 - Introduced by Representatives NEWCOMER, POCAN, BERCEAU, HAHN, MONTGOMERY, MURSAU, SUDER and TURNER, cosponsored by Senators RISSER, GROTHMAN and KEDZIE. Referred to Committee on State Affairs.

1 **AN ACT** *to renumber* 125.035 (2); *to amend* 20.566 (1) (ha), 125.035 (4) (a),
2 125.07 (3) (title) and (a) (intro.) and 1., 125.07 (4) (a) 2. and 3. and 139.04 (1);
3 and *to create* 125.035 (2) (b), 125.297, 125.537 and 139.04 (10) of the statutes;
4 **relating to:** creating brew-on-premises and winemaking-on-premises
5 permits for the making of fermented malt beverages and wine, creating an
6 occupational tax exemption, and making an appropriation.

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 (DOR). Current law also prohibits any person from manufacturing or rectifying wine and selling it unless the person has a manufacturer's, rectifier's, or winery permit. However, no permit is required for a person to brew beer or manufacture wine 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 or wine on the premises unless that person holds a retail license or permit authorizing the consumption.

This bill creates brew-on-premises and winemaking-on-premises permits that authorize the permittee to furnish ingredients, equipment, supplies, advice, and assistance for use on the permittee's premises by a person of legal drinking age to,

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respectively, make beer or wine for personal or family use. The bill limits the volume of beer or wine that any person may make in a year, prohibits the sale of such beer or wine, and allows beer or wine made on these premises to be consumed on these premises. The bill also exempts beer or wine made on the permittee's premises from the state occupational tax. DOR must charge a \$200 biennial fee for brew-on-premises and winemaking-on-premises permits.

Under current law, with certain exceptions, a person who has not attained the legal drinking age of 21 years (underage person), and who is not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age, may not knowingly possess or consume alcohol beverages and may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued. This bill extends these prohibitions to any premises for which a brew-on-premises or winemaking-on-premises permit has been issued.

Also under current law, with certain exceptions, a person is immune from civil liability arising from the act of procuring alcohol beverages for or selling, dispensing, or giving away alcohol beverages 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 or wine on the premises where made. This civil immunity does not apply to a person who knowingly allows the consumption of beer or wine on premises under that person's control by a person who has not attained the legal drinking age.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* 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.** 20.566 (1) (ha) of the statutes is amended to read:
2 20.566 (1) (ha) *Administration of liquor tax and alcohol beverages enforcement.*
3 The amounts in the schedule for computer, audit, and enforcement costs incurred in
4 administering the tax under s. 139.03 (2m) and for costs incurred in enforcing the
5 3-tier system for alcohol beverages production, distribution, and sale under ch. 125.
6 All moneys received from the administration fee under s. 139.06 (1) (a) and the
7 permit fees under ss. 125.297 (1) and 125.537 (1) shall be credited to this
8 appropriation. Notwithstanding s. 20.001 (3) (a), at the end of each fiscal year, the

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1 unencumbered balance of this appropriation account, minus an amount equal to 10%
2 of the sum of the amounts expended and the amounts encumbered from the account
3 during the fiscal year, shall lapse to the general fund.

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

5 **SECTION 3.** 125.035 (2) (b) of the statutes is created to read:

6 125.035 (2) (b) A person holding a permit issued under s. 125.297 or 125.537,
7 and any agent or employee of such a permittee, is immune from civil liability arising
8 out of the consumption of, respectively, fermented malt beverages or wine by another
9 person on premises covered by the permit.

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

11 125.035 (4) (a) In this subsection, "provider" means a person, including a
12 licensee or permittee, who procures alcohol beverages for or sells, dispenses, or gives
13 away alcohol beverages to an underage person in violation of s. 125.07 (1) (a), or who
14 allows the consumption of alcohol beverages by an underage person in violation of
15 s. 125.07 (1) (a) 3. on premises that are covered by a permit issued under s. 125.297
16 or 125.537 and that are under that person's control.

17 **SECTION 5.** 125.07 (3) (title) and (a) (intro.) and 1. of the statutes are amended
18 to read:

19 125.07 (3) (title) PRESENCE IN PLACES OF SALE AND CERTAIN OTHER PLACES; PENALTY.
20 (a) *Restrictions.* (intro.) An underage person not accompanied by his or her parent,
21 guardian, or spouse who has attained the legal drinking age may not enter,
22 knowingly attempt to enter, or be on any premises for which a license or permit for
23 the retail sale of alcohol beverages has been issued or for which a permit has been
24 issued under s. 125.297 or 125.537, for any purpose except the transaction of
25 business pertaining to the licensed premises covered by the license or permit with

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1 or for the licensee or permittee or his or her employee. The business may not be
2 amusement or the purchase, receiving, or consumption of edibles or beverages or
3 similar activities which normally constitute activities of a customer of the premises.

4 This paragraph does not apply to:

5 1. An underage person who is a resident, employee, lodger, or boarder on the
6 premises controlled by the proprietor, licensee, or permittee of which the licensed
7 premises covered by the license or permit consists or is a part.

8 **SECTION 6.** 125.07 (4) (a) 2. and 3. of the statutes are amended to read:

9 125.07 (4) (a) 2. Unless accompanied by a parent, guardian, or spouse who has
10 attained the legal drinking age, possesses or consumes alcohol beverages on licensed
11 premises or premises for which a permit is issued under s. 125.297 or 125.537.

12 3. Enters, knowingly attempts to enter, or is on licensed premises, or premises
13 for which a permit is issued under s. 125.297 or 125.537, in violation of sub. (3) (a).

14 **SECTION 7.** 125.297 of the statutes is created to read:

15 **125.297 Brew-on-premises permits.** (1) The department shall issue
16 brew-on-premises permits that authorize the permittee to provide resources and
17 assistance, as specified in sub. (2), to persons who have attained the legal drinking
18 age for their use in making on the premises fermented malt beverages for personal
19 or family use. A brew-on-premises permit may be issued only to a person who holds
20 a valid certificate issued under s. 73.03 (50) and who is qualified under s. 125.04 (5),
21 except a person acting as an agent for or in the employ of another. The department
22 shall charge a \$200 biennial fee for each permit issued under this subsection. All fees
23 collected under this subsection shall be credited to the appropriation account under
24 s. 20.566 (1) (ha).

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1 **(2)** A permit under sub. (1) authorizes the permittee to provide all of the
2 following on the premises covered by the permit:

3 (a) Space for making and bottling fermented malt beverages.

4 (b) Equipment, ingredients, and supplies, including unfermented wort, for
5 making and bottling fermented malt beverages.

6 (c) Advice and expertise for making and bottling fermented malt beverages.

7 (d) Other assistance related to making and bottling fermented malt beverages,
8 including any of the following:

9 1. Moving containers of fermented malt beverages to or between storage areas.

10 2. Cleaning, maintaining, and repairing equipment.

11 3. Providing climate and temperature control facilities.

12 4. Disposing of spent grains and waste products resulting from making or
13 bottling fermented malt beverages.

14 5. Providing quality control services, such as laboratory analysis and quality
15 control tasting of fermented malt beverages.

16 **(3)** No person may make more than 100 gallons or, if 2 or more persons of legal
17 drinking age reside in that person's household, 200 gallons of fermented malt
18 beverages in any calendar year on premises covered by a permit issued under this
19 section. No person may sell, or offer for sale, fermented malt beverages made on
20 premises covered by a permit issued under this section, but a person may enter such
21 fermented malt beverages in exhibits or competitions.

22 **(4)** Notwithstanding s. 125.09 (1), a person in charge of premises covered by
23 a permit issued under this section may allow a person who has attained the legal
24 drinking age to consume fermented malt beverages on the premises if the fermented
25 malt beverages were made on the premises.

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1 **SECTION 8.** 125.537 of the statutes is created to read:

2 **125.537 Winemaking-on-premises permits.** (1) The department shall
3 issue winemaking-on-premises permits that authorize the permittee to provide
4 resources and assistance, as specified in sub. (2), to persons who have attained the
5 legal drinking age for their use in making on the premises wine for personal or family
6 use. A winemaking-on-premises permit may be issued only to a person who holds
7 a valid certificate issued under s. 73.03 (50) and who is qualified under s. 125.04 (5),
8 except a person acting as an agent for or in the employ of another. The department
9 shall charge a \$200 biennial fee for each permit issued under this subsection. All fees
10 collected under this subsection shall be credited to the appropriation account under
11 s. 20.566 (1) (ha).

12 (2) A permit under sub. (1) authorizes the permittee to provide all of the
13 following on the premises covered by the permit:

14 (a) Space for making and bottling wine.

15 (b) Equipment, ingredients, and supplies for making and bottling wine.

16 (c) Advice and expertise for making and bottling wine.

17 (d) Other assistance related to making and bottling wine, including any of the
18 following:

19 1. Moving containers of wine to or between storage areas.

20 2. Cleaning, maintaining, and repairing equipment.

21 3. Providing climate and temperature control facilities.

22 4. Disposing of waste products resulting from making or bottling wine.

23 5. Providing quality control services, such as laboratory analysis and quality
24 control tasting of wine.

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1 **(3)** No person may make more than 100 gallons or, if 2 or more persons of legal
2 drinking age reside in that person's household, 200 gallons of wine in any calendar
3 year on premises covered by a permit issued under this section. No person may sell,
4 or offer for sale, wine made on premises covered by a permit issued under this section,
5 but a person may enter such wine in exhibits or competitions.

6 **(4)** Notwithstanding s. 125.09 (1), a person in charge of premises covered by
7 a permit issued under this section may allow a person who has attained the legal
8 drinking age to consume wine on the premises if the wine was made on the premises.

9 **SECTION 9.** 139.04 (1) of the statutes is amended to read:

10 139.04 **(1)** Making of wine, cider, or fermented malt beverages at home solely
11 for consumption therein and use thereof in such home by the family and guests
12 without compensation or at a premises covered by a permit issued under s. 125.297
13 or 125.537.

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

15 139.04 **(10)** The removal for consumption of fermented malt beverages or wine
16 made on premises described in a permit issued under s. 125.297 or 125.537.

17 **SECTION 11. Effective date.**

18 (1) This act takes effect on the first day of the 4th month beginning after
19 publication.

20

(END)