



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2554/1
ARG:cjs

2019 ASSEMBLY BILL 362

August 12, 2019 - Introduced by Representatives TAUCHEN, DUCHOW, DOYLE, JAGLER, SANFELIPPO and SKOWRONSKI. Referred to Committee on State Affairs.

1 **AN ACT** *to renumber and amend* 125.25 (3), 125.26 (3), 125.272, 125.51 (2) (c),
2 125.51 (3) (d) and 125.51 (6); *to amend* 125.02 (20), 125.26 (2u), 125.26 (2w),
3 125.26 (2x), 125.51 (3) (bu), 125.51 (3) (bw) and 125.51 (3) (bx); and *to create*
4 125.10 (6), 125.272 (2) and 125.51 (6) (b) of the statutes; **relating to:** remote
5 orders for the sale of alcohol beverages to be picked up on retail licensed
6 premises.

Analysis by the Legislative Reference Bureau

This bill allows certain alcohol beverage retailers to make online or telephone sales of alcohol beverages to be picked up by the customer at parking spaces that are part of the retail licensed premises. The bill also prohibits municipalities from imposing by ordinance additional restrictions on these sales.

Under current law, with limited exceptions, no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. Class "A" and "Class A" licenses authorize the retail sale of, respectively, fermented malt beverages (beer) and intoxicating liquor in original packages for consumption off the licensed premises. Intoxicating liquor includes wine and distilled spirits. A Class "B" license authorizes the retail sale of beer for consumption on or off the premises. Except when issued to a winery, a "Class B" license authorizes the retail sale of intoxicating liquor for consumption on the licensed premises and, subject to certain restrictions, the retail sale of intoxicating liquor in original

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packages for consumption off the licensed premises. Each of these retail licenses is issued by a municipality.

Under current law, a retail license authorizes only face-to-face sales of alcohol beverages to consumers on the licensed premises. The sale to the consumer on the licensed premises is governed by certain requirements, including that the purchaser be of legal drinking age and that the sale be made only during certain hours. The licensed premises on which the sale occurs must be particularly described in the retail license issued by the municipality, and each applicant for a retail license must identify in the application the premises where alcohol beverages will be sold.

This bill provides that, if a Class "A" or "Class A" licensee or a restaurant holding a Class "B" or "Class B" license receives a remote order for alcohol beverages that the consumer will pick up at a parking space that is part of the retailer's licensed premises, the sale of alcohol beverages occurs at the time the consumer takes possession of the alcohol beverages at the parking space, regardless of when the consumer makes payment. The bill defines "remote order" as an order for the sale of alcohol beverages that is placed by telephone or Internet by a consumer who asserts at the time of placing the order that he or she is at least 21 years of age. A restaurant holding a Class "B" or "Class B" license may sell alcohol beverages by remote order only for consumption off the licensed premises. The bill also specifies that licensed premises identified in the retail license may include parking spaces associated with a structure described as licensed premises, even if the parking spaces are not contiguous with the remainder of the licensed premises. The bill also prohibits municipalities from adopting ordinances that impose additional restrictions on alcohol beverage sales made by these retailers pursuant to remote orders.

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

1 **SECTION 1.** 125.02 (20) of the statutes is amended to read:

2 125.02 (20) ~~"Sell", Subject to ss. 125.272 (2) (b) and (c) and 125.51 (6) (b) 2. and~~
3 ~~3., "sell," "sold," "sale," or "selling"~~ means any transfer of alcohol beverages with
4 consideration or any transfer without consideration if knowingly made for purposes
5 of evading the law relating to the sale of alcohol beverages or any shift, device,
6 scheme or transaction for obtaining alcohol beverages, including the solicitation of
7 orders for, or the sale for future delivery of, alcohol beverages.

8 **SECTION 2.** 125.10 (6) of the statutes is created to read:

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1 125.10 (6) REMOTE ORDERS OF ALCOHOL BEVERAGES. (a) Notwithstanding sub.
2 (1), and subject to par. (b), a municipality may not prescribe additional regulations
3 for, or impose additional restrictions relating to, sales of alcohol beverages made
4 pursuant to remote order, as defined in s. 125.272 (2) (a), by Class “A” and “Class A”
5 licensees or by restaurants holding Class “B” or “Class B” licenses. An ordinance that
6 is inconsistent with this paragraph may not be enforced.

7 (b) Paragraph (a) does not limit a municipality’s authority to adopt ordinances
8 of general application that apply to all sales by a retail licensee, including ordinances
9 adopted under ss. 125.32 (3) (d) and 125.68 (4) (b) and (c) 3.

10 **SECTION 3.** 125.25 (3) of the statutes is renumbered 125.25 (3) (a) and amended
11 to read:

12 125.25 (3) (a) Class “A” licenses shall particularly describe the premises for
13 which issued and. The premises for a Class “A” license may include, if described in
14 the license application as provided in s. 125.04 (3) (a) 3., parking spaces associated
15 with any structure described as licensed premises in the license application, even if
16 the parking spaces are not contiguous with the remainder of the Class “A” licensed
17 premises.

18 (b) Class “A” licenses are not transferable, except under s. 125.04 (12).

19 (c) A Class “A” license is subject to revocation for violation of any of the terms
20 or provisions thereof.

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

22 125.26 (2u) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
23 addition to the authorization specified in sub. (1), a Class “B” license issued under
24 this section to a caterer also authorizes the caterer to provide fermented malt
25 beverages, including their retail sale, at the National Railroad Museum in Green

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1 Bay during special events held at this museum. Notwithstanding sub. (1), a caterer
2 may provide fermented malt beverages under this subsection at any location at the
3 National Railroad Museum even though the National Railroad Museum is not part
4 of the caterer's licensed premises, as described under sub. (3) (a) in the caterer's
5 Class "B" license, and even if the National Railroad Museum is not located within the
6 municipality that issued the caterer's Class "B" license. A caterer that provides
7 fermented malt beverages under this subsection is subject to s. 125.32 (2) as if the
8 fermented malt beverages were provided on the caterer's Class "B" licensed
9 premises. This subsection does not authorize the National Railroad Museum to sell
10 fermented malt beverages at retail or to procure or stock fermented malt beverages
11 for purposes of retail sale. This subsection does not apply if, at any time, the National
12 Railroad Museum holds a Class "B" license.

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

14 125.26 (2w) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
15 addition to the authorization specified in sub. (1), a Class "B" license issued under
16 this section to a caterer also authorizes the caterer to provide fermented malt
17 beverages, including their retail sale, at the Heritage Hill state park during special
18 events held at this park. Notwithstanding sub. (1), a caterer may provide fermented
19 malt beverages under this subsection at any location at the Heritage Hill state park
20 even though the Heritage Hill state park is not part of the caterer's licensed
21 premises, as described under sub. (3) (a) in the caterer's Class "B" license, and even
22 if the Heritage Hill state park is not located within the municipality that issued the
23 caterer's Class "B" license. A caterer that provides fermented malt beverages under
24 this subsection is subject to s. 125.32 (2) as if the fermented malt beverages were
25 provided on the caterer's Class "B" licensed premises. This subsection does not

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1 authorize the Heritage Hill state park to sell fermented malt beverages at retail or
2 to procure or stock fermented malt beverages for purposes of retail sale. This
3 subsection does not apply if, at any time, the Heritage Hill state park holds a Class
4 “B” license.

5 **SECTION 6.** 125.26 (2x) of the statutes is amended to read:

6 125.26 (2x) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
7 addition to the authorization specified in sub. (1), a Class “B” license issued under
8 this section also authorizes the licensee to provide fermented malt beverages,
9 including their retail sale, at specific locations within the Ozaukee County
10 fairgrounds for consumption at these locations during special events held at the
11 fairgrounds, if the Ozaukee County board adopts a resolution approving the licensee
12 and if the licensee’s Class “B” licensed premises are located in Ozaukee County.
13 Notwithstanding sub. (1), a licensee may provide fermented malt beverages under
14 this subsection at the Ozaukee County fairgrounds even though the Ozaukee County
15 fairgrounds are not part of the licensee’s licensed premises, as described under sub.
16 (3) (a) in the licensee’s Class “B” license, and even if the Ozaukee County fairgrounds
17 are not located within the municipality that issued the Class “B” license. A licensee
18 that provides fermented malt beverages under this subsection is subject to s. 125.32
19 (2) as if the fermented malt beverages were provided on the licensee’s Class “B”
20 licensed premises. Notwithstanding s. 125.34 (4) and (5), a wholesaler may deliver
21 fermented malt beverages to the Ozaukee County fairgrounds to a licensee approved
22 by the Ozaukee County board under this subsection and such an approved licensee
23 may transport fermented malt beverages from its licensed premises to the Ozaukee
24 County fairgrounds for purposes of selling the fermented malt beverages at the
25 Ozaukee County fairgrounds. This subsection does not authorize Ozaukee County

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1 or any person operating or managing the Ozaukee County fairgrounds to sell
2 fermented malt beverages at retail or to procure or stock fermented malt beverages
3 for purposes of retail sale.

4 **SECTION 7.** 125.26 (3) of the statutes is renumbered 125.26 (3) (a) and amended
5 to read:

6 125.26 (3) (a) Class “B” licenses shall particularly describe the premises for
7 which issued ~~and~~. The premises for a Class “B” license may include, if described in
8 the license application as provided in s. 125.04 (3) (a) 3., parking spaces associated
9 with any structure described as licensed premises in the license application, even if
10 the parking spaces are not contiguous with the remainder of the Class “B” licensed
11 premises.

12 (b) Class “B” licenses are not transferable, except as provided in s. 125.04 (12).

13 (c) A Class “B” license is subject to revocation for violation of any of the terms
14 or provisions thereof.

15 **SECTION 8.** 125.272 of the statutes is renumbered 125.272 (1) and amended to
16 read:

17 125.272 (1) Except as provided in ss. 125.26 (2m), (2s), and (2x) and 125.27 (4)
18 and except with respect to caterers, and subject to sub. (2), a retail license issued
19 under s. 125.25 or 125.26, and a retail permit issued under s. 125.27, authorizes only
20 face-to-face sales to consumers at the premises described in the retail license or
21 permit.

22 **SECTION 9.** 125.272 (2) of the statutes is created to read:

23 125.272 (2) (a) In this subsection, “remote order” means an order for the sale
24 of alcohol beverages that is placed by telephone or Internet by a consumer who

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1 asserts at the time of placing the order that he or she has attained the legal drinking
2 age.

3 (b) If a Class “A” licensee receives a remote order for fermented malt beverages
4 that the consumer will pick up at a parking space that is part of the Class “A” licensed
5 premises, the sale of fermented malt beverages occurs at the time the consumer takes
6 possession of the fermented malt beverages at the parking space that is part of the
7 Class “A” licensed premises, regardless of when the consumer makes payment for the
8 fermented malt beverages.

9 (c) If a restaurant holding a Class “B” license receives a remote order for
10 fermented malt beverages that the consumer will pick up at a parking space that is
11 part of the Class “B” licensed premises, the sale of fermented malt beverages occurs
12 at the time the consumer takes possession of the fermented malt beverages at the
13 parking space that is part of the Class “B” licensed premises, regardless of when the
14 consumer makes payment for the fermented malt beverages. Notwithstanding s.
15 125.26 (1), a restaurant’s sale of fermented malt beverages made by remote order
16 under this paragraph is authorized only for consumption off the licensed premises.

17 **SECTION 10.** 125.51 (2) (c) of the statutes is renumbered 125.51 (2) (c) 1. and
18 amended to read:

19 125.51 (2) (c) 1. “Class A” licenses shall particularly describe the premises for
20 which issued ~~and~~. The premises for a “Class A” license may include, if described in
21 the license application as provided in s. 125.04 (3) (a) 3., parking spaces associated
22 with any structure described as licensed premises in the license application, even if
23 the parking spaces are not contiguous with the remainder of the “Class A” licensed
24 premises.

25 2. “Class A” licenses are not transferable, except as provided in s. 125.04 (12).

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1 **SECTION 11.** 125.51 (3) (bu) of the statutes is amended to read:

2 125.51 (3) (bu) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
3 addition to the authorization specified in sub. (1) (a) and in sub. (3) (a) or (b), a “Class
4 B” license issued under sub. (1) to a caterer also authorizes the caterer to provide
5 intoxicating liquor, including its retail sale, at the National Railroad Museum in
6 Green Bay during special events held at this museum. Notwithstanding subs. (1) (a)
7 and (3) (a) and (b), a caterer may provide intoxicating liquor under this paragraph
8 at any location at the National Railroad Museum even though the National Railroad
9 Museum is not part of the caterer’s licensed premises, as described under par. (d) 1.
10 in the caterer’s “Class B” license, and even if the National Railroad Museum is not
11 located within the municipality that issued the caterer’s “Class B” license. A caterer
12 that provides intoxicating liquor under this paragraph is subject to s. 125.68 (2) as
13 if the intoxicating liquor were provided on the caterer’s “Class B” licensed premises.
14 This paragraph does not authorize the National Railroad Museum to sell
15 intoxicating liquor at retail or to procure or stock intoxicating liquor for purposes of
16 retail sale. This paragraph does not apply if, at any time, the National Railroad
17 Museum holds a “Class B” license.

18 **SECTION 12.** 125.51 (3) (bw) of the statutes is amended to read:

19 125.51 (3) (bw) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
20 addition to the authorization specified in par. (a) or (b) and in sub. (1) (a), a “Class
21 B” license issued under sub. (1) to a caterer also authorizes the caterer to provide
22 intoxicating liquor, including its retail sale, at the Heritage Hill state park during
23 special events held at this park. Notwithstanding pars. (a) and (b) and sub. (1) (a),
24 a caterer may provide intoxicating liquor under this paragraph at any location at the
25 Heritage Hill state park even though the Heritage Hill state park is not part of the

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1 caterer's licensed premises, as described under par. (d) 1. in the caterer's "Class B"
2 license, and even if the Heritage Hill state park is not located within the municipality
3 that issued the caterer's "Class B" license. A caterer that provides intoxicating liquor
4 under this paragraph is subject to s. 125.68 (2) as if the intoxicating liquor were
5 provided on the caterer's "Class B" licensed premises. This paragraph does not
6 authorize the Heritage Hill state park to sell intoxicating liquor at retail or to procure
7 or stock intoxicating liquor for purposes of retail sale. This paragraph does not apply
8 if, at any time, the Heritage Hill state park holds a "Class B" license.

9 **SECTION 13.** 125.51 (3) (bx) of the statutes is amended to read:

10 125.51 (3) (bx) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
11 addition to the authorization specified in par. (a) or (b) and in sub. (1) (a), a "Class
12 B" license issued under sub. (1) also authorizes the licensee to provide intoxicating
13 liquor, including its retail sale, at specific locations within the Ozaukee County
14 fairgrounds for consumption at these locations during special events held at the
15 fairgrounds, if the Ozaukee County board adopts a resolution approving the licensee
16 and if the licensee's "Class B" licensed premises are located in Ozaukee County.
17 Notwithstanding pars. (a) and (b) and sub. (1) (a), a licensee may provide intoxicating
18 liquor under this paragraph at the Ozaukee County fairgrounds even though the
19 Ozaukee County fairgrounds are not part of the licensee's licensed premises, as
20 described under par. (d) 1. in the licensee's "Class B" license, and even if the Ozaukee
21 County fairgrounds are not located within the municipality that issued the licensee's
22 "Class B" license. A licensee that provides intoxicating liquor under this paragraph
23 is subject to s. 125.68 (2) as if the intoxicating liquor were provided on the licensee's
24 "Class B" licensed premises. This paragraph does not authorize Ozaukee County or
25 any person operating or managing the Ozaukee County fairgrounds to sell

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1 intoxicating liquor at retail or to procure or stock intoxicating liquor for purposes of
2 retail sale.

3 **SECTION 14.** 125.51 (3) (d) of the statutes is renumbered 125.51 (3) (d) 1. and
4 amended to read:

5 125.51 (3) (d) 1. “Class B” licenses shall particularly describe the premises for
6 which issued and. The premises for a “Class B” license may include, if described in
7 the license application as provided in s. 125.04 (3) (a) 3., parking spaces associated
8 with any structure described as licensed premises in the license application, even if
9 the parking spaces are not contiguous with the remainder of the “Class B” licensed
10 premises.

11 2. “Class B” licenses are not transferable, except as provided in s. 125.04 (12).

12 **SECTION 15.** 125.51 (6) of the statutes is renumbered 125.51 (6) (a) and
13 amended to read:

14 125.51 (6) (a) Except as provided in subs. (3) (bm), (bs), and (bx) and (5) (e) and
15 except with respect to caterers, and subject to par. (b), a retail license or permit issued
16 under this section authorizes only face-to-face sales to consumers at the premises
17 described in the retail license or permit.

18 **SECTION 16.** 125.51 (6) (b) of the statutes is created to read:

19 125.51 (6) (b) 1. In this paragraph, “remote order” has the meaning given in s.
20 125.272 (2) (a).

21 2. If a “Class A” licensee receives a remote order for intoxicating liquor that the
22 consumer will pick up at a parking space that is part of the “Class A” licensed
23 premises, the sale of intoxicating liquor occurs at the time the consumer takes
24 possession of the intoxicating liquor at the parking space that is part of the “Class

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1 A” licensed premises, regardless of when the consumer makes payment for the
2 intoxicating liquor.

3 3. If a restaurant holding a “Class B” license receives a remote order for
4 intoxicating liquor that the consumer will pick up at a parking space that is part of
5 the “Class B” licensed premises, the sale of intoxicating liquor occurs at the time the
6 consumer takes possession of the intoxicating liquor at the parking space that is part
7 of the “Class B” licensed premises, regardless of when the consumer makes payment
8 for the intoxicating liquor. Notwithstanding sub. (3) (a) to (b), a restaurant’s sale of
9 intoxicating liquor made by remote order under this subdivision is authorized only
10 for consumption off the licensed premises. This subdivision does not affect any
11 restriction under sub. (3) (a) to (b) on a “Class B” licensee’s authorization to sell
12 intoxicating liquor for consumption off the licensed premises.

13

(END)