



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5858/1
ARG:cdc

2021 SENATE BILL 959

February 9, 2022 - Introduced by Senators STROEBEL, NASS and ROYS, cosponsored by Representatives KNODL, GUNDRUM, MOSES and TAUCHEN. Referred to Committee on Housing, Commerce and Trade.

1 **AN ACT to repeal** 125.34 (3) (a) 2.; **to renumber** 125.34 (3) (a) 1.; and **to amend**
2 125.29 (3m) (b), 125.29 (3m) (c) and 125.34 (4) (b) of the statutes; **relating to:**
3 the sales territories of beer wholesalers and self-distribution by brewers.

Analysis by the Legislative Reference Bureau

This bill eliminates the requirement that the sales territories for wholesalers of fermented malt beverages (beer) be exclusive and makes related changes applicable to self-distribution by brewers.

Under current law, a beer wholesaler may not sell or deliver any brand of beer unless the wholesaler has entered into a written agreement with the brewer or brewpub supplying the brand that grants to the wholesaler distribution rights and identifies the designated sales territory for which these distribution rights are granted. A brewer or brewpub may not grant to more than one wholesaler distribution rights for the same brand in the same designated sales territory. A wholesaler may not sell or deliver a brand of beer to a retailer located outside the wholesaler's designated sales territory for the brand. There are limited exceptions that allow another wholesaler or a brewer to distribute beer within a wholesaler's exclusive sales territory, such as when the wholesaler is unable to service its territory.

This bill eliminates the requirement that the distribution agreement between a brewer or brewpub and a beer wholesaler grant the wholesaler exclusive brand distribution rights within a sales territory.

Also under current law, a brewer that manufactures 300,000 or fewer barrels of beer per year may sell and deliver its own beer to retailers if the brewer complies

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with certain requirements, as applicable, to the same extent as if the brewer were a wholesaler, including the requirement for an exclusive sales territory. As it does for wholesalers, this bill eliminates the requirement for exclusive designated sales territories for self-distribution by brewers that manufacture 300,000 or fewer barrels of beer per year. The bill also clarifies that a brewer that self-distributes does not need to maintain a written agreement with itself and does not need to unload and reload beer at a wholesaler's warehouse. The bill also provides that certain other provisions related to beer distribution do not apply to a brewer. Like a wholesaler, a brewer may deliver beer to retailers only at their retail premises.

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

1 **SECTION 1.** 125.29 (3m) (b) of the statutes is amended to read:

2 125.29 **(3m)** (b) A brewer that manufactures 300,000 or less barrels of
3 fermented malt beverages in a calendar year from all locations may sell, ship,
4 transport and deliver to retailers, from the brewery premises, fermented malt
5 beverages, in original unopened packages or containers, that have been
6 manufactured on the brewery premises, if the brewer complies with the
7 requirements in ~~ss. s. 125.33, as applicable,~~ and s. 125.34 (5), as applicable, to the
8 same extent as if the brewer were a wholesaler.

9 **SECTION 2.** 125.29 (3m) (c) of the statutes is amended to read:

10 125.29 **(3m)** (c) If a wholesaler that has been granted distribution rights by a
11 brewer for a brand in a designated sales territory is unable to service the designated
12 ~~sale~~ sales territory for any reason, including the discontinuation of the wholesaler's
13 distribution rights, bankruptcy, or criminal prosecution of the wholesaler in
14 connection with operation of the wholesaler, and the reason is not the result of an
15 action by the brewer, then a brewer shall be allowed, for a period of not more than
16 one year, to sell or ship any brand of fermented malt beverages to retailers located
17 in the wholesaler's designated sales territory. This paragraph applies only to a

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1 brewer that manufactures at least 300,000 barrels of fermented malt beverages in
2 a calendar year from all locations.

3 **SECTION 3.** 125.34 (3) (a) 1. of the statutes is renumbered 125.34 (3) (a).

4 **SECTION 4.** 125.34 (3) (a) 2. of the statutes is repealed.

5 **SECTION 5.** 125.34 (4) (b) of the statutes is amended to read:

6 125.34 (4) (b) Any person, other than another wholesaler, that the wholesaler
7 knows or should know will transport the product for resale in a designated sales
8 territory for which ~~another~~ the wholesaler has not been granted distribution rights
9 for the brand.

10 (END)