

1999 ASSEMBLY BILL 525

October 12, 1999 – Introduced by Representatives UNDERHEIM, AINSWORTH, KELSO, SYKORA and WALKER, cosponsored by Senators ROESSLER, ROSENZWEIG, DARLING and PLACHE. Referred to Committee on Housing.

1 **AN ACT to amend** 704.17 (1) (c), 704.17 (2) (c), 704.17 (3) (b), 823.113 (title) and
2 893.80 (7); and **to create** 823.113 (1g) of the statutes; **relating to:** making a
3 building used to sell an alcoholic beverage without a license or permit a public
4 nuisance.

Analysis by the Legislative Reference Bureau

Under current law, if a building is used to deliver, distribute or manufacture a controlled substance or to facilitate the activities of a criminal gang, that building is a public nuisance. The city, town or village where the nuisance occurs may bring an action under current law to abate the nuisance and enjoin the persons involved from continuing the nuisance. Currently, if an action is brought to abate the nuisance, the owner of the property may appear and, upon agreeing to abate the nuisance and filing appropriate sureties with the court, the court may dismiss the action. Under current law, if the owner does not make an appearance and agree to abate the nuisance, the court may order the removal of all property from the building, closure of the building and sale of the property and building.

Currently, if a law enforcement agency of the city, town or village notifies a property owner that property occupied by his or her tenant is a public nuisance because of the delivery, distribution or manufacture of a controlled substance on the property or because the property is used to facilitate the activities of a criminal gang, the landlord may give the tenant a five-day notice to vacate the property. The tenant, under current law, has the right to contest the allegation that the property is a nuisance.

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This bill adds buildings or structures where the sale of alcoholic beverages occurs without a required license, permit or other authorization to those that are public nuisances and subjects those buildings and structures to the abatement procedures and landlord eviction processes summarized above.

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

1 **SECTION 1.** 704.17 (1) (c) of the statutes is amended to read:

2 704.17 **(1)** (c) A property owner may terminate the tenancy of a week-to-week
3 or month-to-month tenant if the property owner receives written notice from a law
4 enforcement agency ~~of a city, town or village, as defined in s. 165.83 (1) (b),~~ that a
5 nuisance under s. 823.113 (1), (1g) or (1m) (b) exists in that tenant's rental unit or
6 was caused by that tenant on the property owner's property and if the property owner
7 gives the tenant written notice requiring the tenant to vacate on or before a date at
8 least 5 days after the giving of the notice. The notice shall state the basis for its
9 issuance and the right of the tenant to contest the termination of tenancy in an
10 eviction action under ch. 799. If the tenant contests the termination of tenancy, the
11 tenancy may not be terminated without proof by the property owner by the greater
12 preponderance of the credible evidence of the allegation in the notice from the law
13 enforcement agency ~~of a city, town or village~~ that a nuisance under s. 823.113 (1), (1g)
14 or (1m) (b) exists in that tenant's rental unit or was caused by that tenant.

15 **SECTION 2.** 704.17 (2) (c) of the statutes is amended to read:

16 704.17 **(2)** (c) A property owner may terminate the tenancy of a tenant who is
17 under a lease for a term of one year or less or who is a year-to-year tenant if the
18 property owner receives written notice from a law enforcement agency ~~of a city, town~~
19 ~~or village, as defined in s. 165.83 (1) (b),~~ that a nuisance under s. 823.113 (1), (1g) or
20 (1m) (b) exists in that tenant's rental unit or was caused by that tenant on the

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1 property owner's property and if the property owner gives the tenant written notice
2 requiring the tenant to vacate on or before a date at least 5 days after the giving of
3 the notice. The notice shall state the basis for its issuance and the right of the tenant
4 to contest the termination of tenancy in an eviction action under ch. 799. If the
5 tenant contests the termination of tenancy, the tenancy may not be terminated
6 without proof by the property owner by the greater preponderance of the credible
7 evidence of the allegation in the notice from the law enforcement agency of a city,
8 ~~town or village~~ that a nuisance under s. 823.113 (1), (1g) or (1m) (b) exists in that
9 tenant's rental unit or was caused by that tenant.

10 **SECTION 3.** 704.17 (3) (b) of the statutes is amended to read:

11 704.17 **(3)** (b) A property owner may terminate the tenancy of a tenant who is
12 under a lease for a term of more than one year if the property owner receives written
13 notice from a law enforcement agency of a city, ~~town or village~~, as defined in s. 165.83
14 (1) (b), that a nuisance under s. 823.113 (1), (1g) or (1m) (b) exists in that tenant's
15 rental unit or was caused by that tenant on the property owner's property and if the
16 property owner gives the tenant written notice to vacate on or before a date at least
17 5 days after the giving of the notice. The notice shall state the basis for its issuance
18 and the right of the tenant to contest the termination of tenancy in an eviction action
19 under ch. 799. If the tenant contests the termination of tenancy, the tenancy may
20 not be terminated without proof by the property owner by the greater preponderance
21 of the credible evidence of the allegation in the notice from the law enforcement
22 agency of a city, ~~town or village~~ that a nuisance under s. 823.113 (1), (1g) or (1m) (b)
23 exists in that tenant's rental unit or was caused by that tenant.

24 **SECTION 4.** 823.113 (title) of the statutes is amended to read:

25 **823.113 (title) Drug, alcohol or criminal gang house a public nuisance.**

