

1999 DRAFTING REQUEST

Bill

Received: **07/29/1999**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Gregg Underheim (608) 266-2254**

By/Representing: **Kate**

This file may be shown to any legislator: **NO**

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Beverages - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Number of Class "B" licenses held by a small brewer

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nilsepe 07/29/1999	gilfokm 08/06/1999		_____			
/P1	nilsepe 09/14/1999	gilfokm 09/17/1999	jfrantze 08/06/1999	_____	lrb_docadmin 08/06/1999		State
/1			mclark 09/20/1999 lrb_docadmin	_____	lrb_docadmin 09/20/1999	lrb_docadminState 09/20/1999	
			10/29/1999	_____			
/2	nilsepe	gilfokm	jfrantze	_____	lrb_docadmin	lrb_docadminState	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	12/01/1999	12/01/1999	10/29/1999	_____	10/29/1999	10/29/1999	
/3			mclark	_____	lrb_docadmin	lrb_docadmin	
			12/01/1999	_____	12/01/1999	12/01/1999	

FE Sent For:

1130
2/18/00

<END>

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/1		<i>13-12-1-99</i> Kmf	mclark 09/20/1999	_____	lrb_docadmin 09/20/1999	lrb_docadmin	State
			lrb_docadmin	_____			
			10/29/1999	_____			
/12			jfrantze	_____	lrb_docadmin	lrb_docadmin	

MRC 12/1 *MRC/JP 12/1*

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			10/29/1999	_____	10/29/1999	10/29/1999	

FE Sent For:

<END>

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/?	nilsepe 07/29/1999	gilfokm 08/06/1999		_____		
/P1	nilsepe 09/14/1999	gilfokm 09/17/1999	jfrantze 08/06/1999	_____	lrb_docadmin 08/06/1999	State
/1		<i>12-10/28/99</i> mclark 09/20/1999		_____	lrb_docadmin 09/20/1999	lrb_docadmin 09/20/1999

FE Sent For:

Jb 10/29 *Jb /K4*
10/29
<END>

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/?	nilsepe 07/29/1999	gilfokm 08/06/1999		_____			
/P1		1-9-17-99 Kmg	jfrantze 08/06/1999	_____	lrb_docadmin 08/06/1999		
FE Sent For:			MRC 9/20	MRC/Sc 9/20			

*Please
Joker
1-PE*

<END>

1999 DRAFTING REQUEST

Bill

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1?	nilsepe	1/1-8-5-99 King	JG/6	JG/KM 8/6			

FE Sent For:

<END>

1999

Date (time) needed _____

LRB - 3358, P1

BILL

(D-NOTE)

PEN: *King*: _____

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to: *the number of Class "B" licenses that may be issued to certain brewers.*

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

For the 3 titles used in an analysis, in the component bar:

For the main heading [old =M], execute: create → anal: → title: → head

For the subheading [old =S], execute: create → anal: → title: → sub

For the sub-subheading [old =P], execute: create → anal: → title: → sub-sub

This is a preliminary draft. An analysis will be provided in a later version.

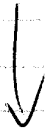
(D-NOTE)

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

SECTION #.

SEC. #. CR; 125.02 (1m)

125.02 (1m) "Barrel" means 31 ^{U.S.} gallons.





July 26, 1999

Representative Gregg Underheim
P.O. Box 8953
Madison, WI 53708

Via Fax & U.S. Mail

Dear Gregg:

Thank you for your support in our request for the creation of a legislative exception to Wisconsin Statutes Sections 125.31 & 125.33. Although the original intent behind the statutes was to prevent large breweries from monopolizing the retail liquor market, these statutes were created well before the onset of brew-pubs, or restaurants that produce a small quantity of beer on site. Unfortunately, today family restaurant businesses like ours may be in violation of these statutes, since the establishment of just one brew-pub may jeopardize the ownership of restaurants that have been in existence for over 30 years.

We are asking the legislature to put into place an exception that would exclude "brew-pubs" from these "tied house laws". A standard threshold used in the industry to distinguish between brew-pubs and even small breweries is the production of less 10,000 barrels (bbl) a year. To help put this into perspective, last year Fox River Brewing Co., LLC produced a total of 1,023 bbl. Miller Brewing Co. produced 6,361,244 bbl in the State of Wisconsin.

The following is an example of the language that we would like to see added to Sections 125.31 and 125.33:

Exemption for Brew-Pubs – The restrictions contained in sections 125.31 and 125.33 do not apply to any brew-pubs with an annual volume of less than 10,000 bbl.

Thank you again for your support, in what is a crucial exception for those of us restaurateurs.

Sincerely,

Jay P. Supple
Fox River Brewing Co.

John F. Supple, III
Fox River Brewing Co.



Corporate Office:
1501 Arboretum Drive
Oshkosh, Wisconsin 54901

920.232.2334
FAX 920.232.9671



~~renumbered s. 125.31 (1)(a) and~~

Section #. 125.31 (1) of the statutes is amended to read:

125.31 (1) ~~Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may maintain and operate a place on brewery premises and a place on real estate owned by the brewer or a subsidiary or affiliate corporation or limited liability company for the sale of fermented malt beverages for which a Class "B" license is required for each place, but not more than 2 such Class "B" licenses shall be issued to any brewer.~~ Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may ^{may} ~~also~~ own, maintain or operate places for the sale of fermented malt beverages at the state fair park or on any county fairgrounds located in this state. Any Class "B" license necessary in connection with this subsection shall be issued to the brewer. Notwithstanding s. 125.33 (1), a brewer may own the furniture, fixtures, fittings, furnishings and equipment on such premises and shall pay any license fee or tax required for the operation of the premises.

~~History: 1981 c. 79; 1989 a. 253; 1991 a. 52; 1993 a. 112, 213, 215, 491.~~

Notwithstanding s. 125.28(1), a brewer who holds a class "B" license is not required to possess a wholesaler's license to sell fermented malt beverages for consumption on the premises where

that together with all fermented malt beverages manufactured during the year by all brewers associated with that brewer through common ownership, management or control, manufactures or more barrels of fermented malt beverages in one year.

Sold, if the fermented malt beverages are manufactured by that brewer.

~~SEC. #. 125.31(1)(a) If the brewer holds a Class B license.~~

[Handwritten signature]

✓

Section #. 125.31 (3) (b) of the statutes is amended to read:

125.31 (3) (b) To persons other than licensees and permittees, if the brewer obtains a Class "A" license.

[Handwritten note: "or Class 'B'"]

~~History: 1981 c. 79; 1989 a. 253; 1991 a. 32; 1993 a. 112, 213, 215, 491.~~

(end)

3358/PIDN
: King:

This draft allows more than 2
Class "B" licenses^s to be issued to a brewery
that ~~produces~~ ^{together with its affiliates} less than 10,000 barrels of beer per
year. The draft also exempts all breweries^s from
having to possess a wholesaler's^s license in order
to sell its beer for consumption on the
premises where sold and manufactured.

The drafting^s request^k asked for an exemption
from s. 125.33. Section 125.31(1)^k already provides
an exemption to s. 125.33(1). This existing
exemption, as affected by this draft, seems to meet
the needs of the drafting request. If it does not,
and additional exemptions are required, please let me know.

Please review this draft closely to ^{ensure} ensure that
it meets your needs.

-PEN

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3358/P1dn
PEN:kmg:jf

August 6, 1999

This draft allows more than 2 Class "B" licenses to be issued to a brewery that, together with its affiliates, provides less than 10,000 barrels of beer per year. The draft also exempts all breweries from having to possess a wholesaler's license in order to sell beer for consumption on the premises where sold and manufactured.

The drafting request asked for an exemption from s. 125.33. Section 125.31 (1) already provides an exemption to s. 125.33 (1). This existing exemption, as affected by this draft, seems to meet the needs of the drafting request. If it does not, and additional exemptions are required, please let me know.

Please review this draft closely to ensure that it meets your needs.

Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926

9/13/99

Request by Kate - aide to Rep. Underheim
- draft analysis to -3358/P1. No changes
- Janet - 3358/1.

-PEN



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3358/P
PEN:kmg:jf

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~



insert

d-note

Sen Cal.

1 AN ACT *to amend* 125.31 (1) and 125.31 (3) (b); and *to create* 125.02 (1m) of the
2 statutes; **relating to:** the number of Class "B" licenses that may be issued to
3 certain brewers.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

WISCONSIN
A

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

4 SECTION 1. 125.02 (1m) of the statutes is created to read:
5 125.02 (1m) "Barrel" means 31 U.S. gallons.
6 SECTION 2. 125.31 (1) of the statutes is amended to read:
7 125.31 (1) Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may
8 maintain and operate a place on brewery premises and a place on real estate owned
9 by the brewer or a subsidiary or affiliate corporation or limited liability company for
10 the sale of fermented malt beverages for which a Class "B" license is required for each

1 place, but not more than 2 such Class "B" licenses shall may be issued to any brewer
2 that, together with all fermented malt beverages manufactured during the year by
3 all brewers associated with that brewer through common ownership, management
4 or control, manufactures 10,000 or more barrels of fermented malt beverages in one
5 year. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may also own,
6 maintain or operate places for the sale of fermented malt beverages at the state fair
7 park or on any county fairgrounds located in this state. Any Class "B" license
8 necessary in connection with this subsection shall be issued to the brewer.
9 Notwithstanding s. 125.33 (1), a brewer may own the furniture, fixtures, fittings,
10 furnishings and equipment on such premises and shall pay any license fee or tax
11 required for the operation of the premises. Notwithstanding s. 125.28 (1), a brewer
12 who holds a Class "B" license is not required to possess a wholesaler's license to sell
13 fermented malt beverages for consumption on the premises where sold, if the
14 fermented malt beverages are manufactured by that brewer.

15 **SECTION 3.** 125.31 (3) (b) of the statutes is amended to read:

16 125.31 (3) (b) To persons other than licensees and permittees, if the brewer
17 obtains a Class "A" or Class "B" license.

18 (END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3358/linsA
PEN.....

Under current law, alcohol beverages are generally distributed from the manufacturer to the consumer under a three-tier distribution system: ^{AA}the manufacturer may sell only to a wholesaler or rectifier (a person who blends, refines or purifies distilled spirits or wines); the wholesaler or rectifier may sell only to a wholesaler or to a retailer; the retailer may sell only to the consumer. With specific exceptions, no person may sell outside the three-tier system and no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. A specific exception allows a brewer to provide its fermented malt beverages (beer) free of charge, for consumption on the brewery premises. Another exception allows a brewer to sell beer, for consumption on or off the premises, at not more than two licensed locations: ^{AA}one location on brewery premises and one location on real property owned by the brewery, or its subsidiary or affiliate. ✓

This bill affects the number of premises from which a smaller brewer may sell its beer directly to consumers. The bill limits the two-location restriction (of selling beer to consumers at only two locations) to apply only to brewers that manufacture 10,000 or more barrels of beer in one year (310,000 U.S. gallons). Under the bill, a brewery that, considered together with the production of all of its associated breweries, produces less than 10,000 barrels of beer per year may operate an unlimited number of licensed premises, on real property owned by the brewery, or its subsidiary or affiliate, that are licensed to sell beer for consumption on or off the premises.

~~Also under current law, a brewery that purchases beer directly from another brewery for resale to consumers must possess a wholesaler's license issued by the municipality in which some part of the wholesaler's business is conducted. This bill specifies that a brewery is not required to possess a wholesaler's permit to sell beer manufactured on the premises.~~ e

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

(end index)

~~Alan J. Skindrud~~
~~3299 - [unclear]~~

-3358/1dn
King:

Rep. Underheim:

I deleted language from LRB-3358/P1
specifying that a brewer who holds a "class B"
license need not obtain a wholesaler's license
to sell its own beer. Section 125.28²⁸ (2)₁ (b)₁ 1-b.
already accomplishes this.

-PEN

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3358/1dn
PEN:kmg:mrc

September 20, 1999

Representative Underheim:

I deleted language from LRB-3358/P1 specifying that a brewer who holds a Class "B" license need not obtain a wholesaler's license to sell its own beer. Section 125.28 (2) (b) 1. b. already accomplishes this.

Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926

Supergo - (800) 326-2453

~~UW SPORTS TEAM~~

~~UW doc~~

Underheim ; Kate
-3358

Common ownership, management or control

USE TAX 8.87 tax code language

Redraft 3358

to define "Common ownership,
management or control" along lines
similar to TAX 8.87. (maybe use
reference to fed. law?) per Roger Johnson @
DOR.

- PEN



12

1999 BILL

WPO:
Draft is
in hold

d-note

Jan. Act.

1 AN ACT to amend 125.31 (1) and 125.31 (3) (b); and to create 125.02 (1m) of the
2 statutes; relating to: the number of Class "B" licenses that may be issued to
3 certain brewers.

Analysis by the Legislative Reference Bureau

Under current law, alcohol beverages are generally distributed from the manufacturer to the consumer under a three-tier distribution system: the manufacturer may sell only to a wholesaler or rectifier (a person who blends, refines or purifies distilled spirits or wines); the wholesaler or rectifier may sell only to a wholesaler or to a retailer; the retailer may sell only to the consumer. With specific exceptions, no person may sell outside the three-tier system and no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. A specific exception allows a brewer to provide its fermented malt beverages (beer) free of charge, for consumption on the brewery premises. Another exception allows a brewer to sell beer, for consumption on or off the premises, at not more than two licensed locations: one location on brewery premises and one location on real property owned by the brewery, or its subsidiary or affiliate.

This bill affects the number of premises from which a smaller brewer may sell its beer directly to consumers. The bill limits the two-location restriction (of selling beer to consumers at only two locations) to apply only to brewers that manufacture 10,000 or more barrels of beer in one year (310,000 U.S. gallons). Under the bill, a brewery that, considered together with the production of all ~~of its associated~~ breweries, produces less than 10,000 barrels of beer per year may operate an

with it

associated through common ownership, management or control

are members of a controlled group of corporations that collectively

JIS8/2tn
:King:

Representative Unterheim,

This draft replaces "common ownership, management or control" with a classification of "controlled group of corporations" as determined under federal tax law. Only 2 licenses may be issued for ⁽¹⁾ each brewer who belongs to a controlled group of corporations that collectively produces 10,000 or more barrels of beer. Since each brewer in that controlled group may hold 2 licenses, the controlled group, collectively, may hold a dozen licenses or more. OK?
==

-PEN

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3358/2dn
PEN:kmg:jf

October 29, 1999

Representative Underheim,

This draft replaces "common ownership, management or control" with a classification of "controlled group of corporations", as determined under federal tax law. Only 2 licenses may be issued for *each brewer* who belongs to a controlled group of corporations that collectively produces 10,000 or more barrels of beer. Since each brewer in that controlled group may hold 2 licenses, the controlled group, collectively, may hold a dozen licenses or more. OK?

Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926

11/30/99

meeting w/ Rep. Underheim & Sen. Roessler.

1) Concerned about franchises not being counted against 10,000 barrel limit - prohibit franchising as a means for brewers to escape the license limitations. Count production of franchisor & related franchises.

2) Allow extra class "B" licenses only for restaurants in which sale of alcohol accounts for less than 50% of gross receipts.

- PEW

Handwritten: 12/1

Handwritten: 13

1999 ASSEMBLY BILL

Handwritten: d/note

Handwritten: INSERTS

Handwritten: Sen. Cat.

1 **AN ACT** to amend 125.31 (1) and 125.31 (3) (b); and to create 125.02 (1m) of the
2 statutes; relating to: the number of Class "B" licenses that may be issued to
3 certain ^{small} brewers.

Analysis by the Legislative Reference Bureau

Under current law, alcohol beverages are generally distributed from the manufacturer to the consumer under a three-tier distribution system: the manufacturer may sell only to a wholesaler or rectifier (a person who blends, refines or purifies distilled spirits or wines); the wholesaler or rectifier may sell only to a wholesaler or to a retailer; the retailer may sell only to the consumer. With specific exceptions, no person may sell outside the three-tier system and no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. A specific exception allows a brewer to provide its fermented malt beverages (beer) free of charge, for consumption on the brewery premises. Another exception allows a brewer to sell beer, for consumption on or off the premises, at not more than two licensed locations: one location on brewery premises and one location on real property owned by the brewery, or its subsidiary or affiliate.

Handwritten: ✓
INS
A-1

This bill affects the number of premises from which a smaller brewer may sell its beer directly to consumers. The bill limits the two-location restriction (of selling beer to consumers at only two locations) to apply only to brewers that are members of a controlled group of corporations that collectively manufactures 10,000 or more barrels of beer in one year (310,000 U.S. gallons). Under the bill, a brewery that, considered together with the production of all breweries associated with it through

ASSEMBLY BILL

common ownership, management or control, produces less than 10,000 barrels of beer per year may operate an unlimited number of licensed premises, on real property owned by the brewery, or its subsidiary or affiliate, that are licensed to sell beer for consumption on or off the premises.

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

145
A-2

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

SECTION 1. 125.02 (1m) of the statutes is created to read:

125.02 (1m) "Barrel" means 31 U.S. gallons.

SECTION 2. 125.31 (1) of the statutes is amended to read:

125.31 (1) Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may maintain and operate a place on brewery premises and a place on real estate owned by the brewer or a subsidiary or affiliate corporation or limited liability company for the sale of fermented malt beverages for which a Class "B" license is required for each place, but not more than 2 such Class "B" licenses shall ~~may~~ be issued to any brewer that is a component member of a controlled group of corporations, as determined under 26 USC 1563, that collectively manufactures 10,000 or more barrels of fermented malt beverages in one year. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may also own, maintain or operate places for the sale of fermented malt beverages at the state fair park or on any county fairgrounds located in this state. Any Class "B" license necessary in connection with this subsection shall be issued to the brewer. Notwithstanding s. 125.33 (1), a brewer may own the furniture, fixtures, fittings, furnishings and equipment on such premises and shall pay any license fee or tax required for the operation of the premises.

SECTION 3. 125.31 (3) (b) of the statutes is amended to read:

INSEA
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1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB

-3358/3 ins A

ins-
A-1

A brewer is required to hold a Class "B" license (authorizing the retail sale of beer for consumption on or off the premises where sold) for each such location.

This bill allows small brewers to hold Class "B" licenses for any number of qualifying restaurants, in addition to the other licensed locations. The bill defines a "small brewer" as a brewer that, together with all related brewers, produces less than 10,000 barrels (310,000 U.S. gallons) of beer in one year. The following are all considered related brewers: brewers that are owned by a common majority owner, whether the brewers are corporations, sole proprietorships or partnerships; brewers that are considered one taxpayer under federal occupational tax law; brewers that are franchisees or the franchisor of the brewer; and brewers that are franchisees of the brewer's franchisor.

ins
A-2

(end insert)

with the
brewer in
question
as

A "qualifying
rest
restaurant" is
a restaurant in which
the sale of alcohol
beverages accounts for
less than 50% of
its gross receipts.

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3358/3ins
PEN.....

ins
2-2

A

1

SECTION 1. 125.31 (1) of the statutes is renumbered 125.31(1)(a)2. and amended to read:

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125.31 (1) (a) 2. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may maintain and operate ^{one} a place on brewery premises and ^{one} a place on real estate owned by the brewer or a subsidiary or affiliate corporation or limited liability company for the sale of fermented malt beverages for which a Class "B" license is required for each place, but not more than 2 such Class "B" licenses shall be issued to any brewer. This subdivision does not apply to a small brewer.

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(b) Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may also own, maintain or operate places for the sale of fermented malt beverages at the state fair park or on any county fairgrounds located in this state, in addition to places authorized under par. (a).

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14

(c) Any Class "B" license necessary in connection with this subsection shall be issued to the brewer.

15

16

17

(d) Notwithstanding s. 125.33 (1), a brewer may own the furniture, fixtures, fittings, furnishings and equipment on such premises and shall pay any license fee or tax required for the operation of the premises.

History: 1981 c. 79; 1989 a. 253; 1991 a. 32; 1993 a. 112, 213, 215, 491.

18

SECTION 2. 125.31 (1) (a) 1. of the statutes is created to read:

19

20

21

125.31 (1) (a) 1. In this paragraph, "small brewer" means a brewer that, together with the fermented malt beverages manufactured by all of the following, manufactures less than 10,000 barrel^s of beer annually:

during the same year

22

23

a. All brewers that share membership with the brewer in a controlled group of brewers, as determined under 26 USC 5051 (a) (2) (B).

1 b. All brewers considered with the brewer as one taxpayer under 27 CFR
2 25.111b (b).

3 c. All franchisees, as defined in s. 553.03 (5), of the brewer.

4 d. All franchisees, as defined in s. 553.03 (5), of the brewer's franchisor, as
5 defined in s. 553.03 (6).

6 e. The franchisor, as defined in s. 553.03 (6), of the brewer.

7 **SECTION 3.** 125.31 (1) (a) 3. of the statutes is created to read:

8 125.31 (1) (a) 3. Notwithstanding ss. 125.29 (2) and 125.33 (1), a small brewer
9 may maintain and operate, ~~the following places~~ ^{the following places} for the sale of fermented malt
10 beverages, ⁽²⁾ one place on brewery premises; one place on real estate owned by the
11 brewer or a subsidiary or affiliate corporation or limited liability company; and any
12 number of restaurants in each of which the sale of alcohol beverages accounts for less
13 than 50% of its gross receipts. A Class "B" license is required for each place described
14 in this subdivision. AA

(end insert)
2-2

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3358/3dn

PEN...*King*

December 1, 1999

Representative Underheim,

Because 26 USC 1563 (referenced in LRB-3358/2) excludes certain franchised corporations from consideration as a "component member of a controlled group of corporations", this draft also specifically counts the beer produced by the brewer's franchisor and by all franchises related to the brewer.

Because 26 USC 1563 contains an 80% ownership requirement to be considered "under common ownership", I substituted a reference to 26 USC 5051 (a) (2) (B), which reduces the minimum ownership requirement to "more than 50%" (a controlling ownership). 26 USC 5051 (a) (2) (B) is used to determine whether a brewer manufactures less than 2,000,000 barrels of beer (and so is entitled to a reduced rate of federal occupational tax).

For purposes of determining whether a brewer is a "small brewer" (and eligible for an unlimited number of Class "B" licenses for qualified restaurants), that brewer's production is considered along with the ~~production~~ of all of the following: *production*

1. All corporations connected to the brewer through stock ownership with a common parent corporation, or owned by the same 5 or fewer owners. Corporations which the parent corporation, or other owners, owns at least 50% of the voting stock are considered connected to the brewer. See 26 USC 5051 (a) (2) (B). *that are*

2. All partnerships and sole proprietorships ~~owned~~ at least 50% by an owner common to the brewer. See 27 CFR 25.111b (b). *owned*

3. All franchises granted by the brewer. Note that the definition of "franchise", taken from Wisconsin's Franchise Investment Law, is very broad. See s. 553.22 for franchises that are excluded from the Franchise Investment Law but which are considered franchises under this draft. *AD*

4. The franchisor of the brewer.

5. All franchises granted by the franchisor of the brewer. *↓*

Finally, note that this draft inverts LRB-3358/2. That draft limited the 2-license limitation to larger brewers. Instead, this LRB-3358/3 allows additional Class "B" licenses to be issued to a "small brewer" for qualifying restaurants.

Please read this draft very closely to ensure that it meets your needs.

Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3358/3dn
PEN:kmg:mrc

December 1, 1999

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For purposes of determining whether a brewer is a "small brewer" (and eligible for an unlimited number of Class "B" licenses for qualified restaurants), that brewer's production is considered along with the production of all of the following:

1. All corporations connected to the brewer through stock ownership with a common parent corporation, or owned by the same 5 or fewer owners. Corporations in which the parent corporation, or other owners, owns at least 50% of the voting stock are considered connected to the brewer. See 26 USC 5051 (a) (2) (B).
2. All partnerships and sole proprietorships that are at least 50% owned by an owner common to the brewer. See 27 CFR 25.111b (b).
3. All franchises granted by the brewer. Note that the definition of "franchise", taken from Wisconsin's Franchise Investment Law, is very broad. See s. 553.22 for franchises that are excluded from the Franchise Investment Law but which are considered franchises under this draft.
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