

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SB55)**

Received: 06/07/2001

Received By: agary

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Larson

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Beverages - miscellaneous

Extra Copies: RCT

Submit via email: NO

Requester's email:

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**Pre Topic:**

LFB: Larson -

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**Topic:**

Fermented malt beverages - tied house and dealership laws (Motion #1293)

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**Instructions:**

See Attached

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**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>
/1	agary 06/08/2001	csicilia 06/08/2001	jfrantze 06/08/2001	_____	lrb_docadmin 06/08/2001		

FE Sent For:

<END>

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/1	agary	11 ags 6/8 01	206/8	26/89 6/8			

FE Sent For:

<END>

Representative Gard

GENERAL FUND TAXES -- EXCISE TAXES AND REGULATION  
OF ALCOHOL AND TOBACCO

Regulation of Alcoholic Beverages

Motion:

Move to modify the provisions of the bill relating to the regulation of alcoholic beverages as follows:

- a. Reduce the period during which a secured third party may sell beer without a license from 30 days to 15 days.
- b. Modify the provisions regarding gifts provided by brewers or wholesalers to retailers so that the aggregate value of signs, clocks, or menu boards given by a brewer or wholesaler may not exceed \$2,500 at "any given time" rather than "during any calendar year."
- c. Modify the record-keeping requirements under the provisions regarding gifts by brewers or wholesalers to retailers so that only the recipient, not the donor and the recipient, must keep written records of the number of and value of items received, subject to inspection by the Department of Revenue.
- d. Modify the provisions regarding gifts of signs made by brewers or wholesalers to retailers to allow signs made of plastic, vinyl "or other like material" rather than plastic, vinyl or "signs made from other materials with a useful life of less than one year."
- e. Delete the bill's provisions regarding advertising and promotional events held on retailers' premises. Instead, allow brewers and wholesalers to purchase advertising from a non-licensed third party, such as a radio station or promoter, which conducts national or regional sweepstakes, contests or promotions at the premises of retailers which sell the brewer's or wholesaler's products. In general, specify that the non-licensed third party could promote the event or activity, including the location of the event or activity, if the advertisement lists four or more unaffiliated retail licensees, and if no money is given to the retail licensee for the privilege of conducting the sweepstakes, contest or promotion. For brewers that produce less than 30,000 barrels of beer annually, allow such promotion if only one retailer is listed in the advertisement. Specify that brewers and wholesalers could conduct their own national or regional sweepstakes, contests or promotions on the premises of retailers if the conditions specified above are satisfied.

f. Establish the provisions of the bill relating to compensation provided to beer wholesalers following the assumption of a dealership that has been terminated, cancelled or not renewed in Chapter 125 of the Statutes (relating to alcoholic beverages) rather than Chapter 135 (relating to dealership practices). In addition, specify that the compensation provisions would not apply in cases where the wholesaler has terminated its relationship with the brewer. Provide that termination would occur if: (a) the wholesaler has quit the business, whether due to death, retirement or sale of the business; or (b) the wholesaler has not placed an order within the previous 30 days.

g. Modify the bill's provisions regarding the provision of entertainment by brewers and wholesalers to retailers to provide that entertainment would be limited to no more than eight days annually, rather than 12 days annually.

h. Specify that no Class "A" or Class "B" licensee may condition the purchase of beer from a brewer or wholesaler upon the furnishing of anything of value by the brewer or wholesaler to the licensee or to any person for the use, benefit or relief of any licensee.

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Note:

*Sales of Alcohol by Secured Third Parties.* Under current law, no license or permit is required for the sale of alcohol by a secured third party in good faith under the terms of a security agreement if the sale is not for purpose of avoiding state alcoholic beverage regulations or the state excise taxes on alcoholic beverages. Such sales must be in the ordinary course of the business of lending money secured by a security interest in alcoholic beverages, warehouse receipts or other evidence of ownership.

The bill would specify that a sale of beer under this provision would have to be made within 30 days after the third party takes possession of the beer unless the third party demonstrates good cause why a sale in compliance with the statutes on secured transactions or the security agreement cannot be made within this time period. This motion would reduce the 30-day time limit under the bill to 15 days.

*Gifts Provided by Brewers or Wholesalers to Retailers.* Current law, with a number of exceptions, prohibits brewers or wholesalers from furnishing, giving, lending, leasing or selling furniture, fixtures, fittings, equipment, money or other things of value to any campus or person holding a Class "B" license or permit (for the retail sale of beer for on-premises consumption), or to any person for the use, benefit or relief of any campus or Class "B" retailer.

One exception to this provision is that a brewer or wholesaler may provide, for placement inside the premises, signs, clocks or menu boards with an aggregate value of not more than \$150. Each recipient must keep an invoice or credit memo containing the name of the donor and the

number and value of items received and must make these records available to DOR for inspection upon request. The bill would modify this provision by increasing the dollar limit from \$150 to \$2,500 during any calendar year. In addition, both the donor and the recipient would be required to keep written documentation containing the name of the recipient and donor and the number and value of items provided, and make these records available to DOR. This motion would modify the bill by: (a) specifying that the \$2,500 limit would apply to items provided "at any given time" rather than "during any calendar year"; and (b) requiring only the recipient to maintain records of such gifts.

Another exception under current law is that a brewer or wholesaler may provide signs made from paper or cardboard for placement inside the premises. The bill would modify this provision to include signs made from plastic or vinyl or from other materials with a useful life of less than one year. In addition, the bill would specify that signs could be provided without regard to the \$2,500 limit (\$150 under current law) on the aggregate value of items provided by brewers and wholesalers. This motion would replace the phrase "signs made from paper, cardboard, plastic, or vinyl, or signs made from other materials with a useful life of less than one year" with "signs made from paper, cardboard, plastic, vinyl or other like material." The useful life of the material would not be considered.

A third exception under current law permits brewers and wholesalers to purchase advertising for fair compensation from a bona fide national or statewide trade association which derives its principal income from membership dues of Class "B" retailers. The bill would also allow brewers and wholesalers to purchase advertising from any person who does not hold an alcoholic beverages license or permit and who conducts a bona fide advertising, promotional or media business, to promote brewer- or wholesaler-sponsored sweepstakes, contests or promotions on the premises of Class "B" retailers if: (a) the advertising or promotion includes at least five unaffiliated retailers; and (b) the retailer on whose premises the event will occur does not receive compensation, directly or indirectly, for hosting the event. In addition, the bill would allow brewers and wholesalers to conduct their own sweepstakes, contests or promotions on the premises of Class "B" retailers if the above conditions are satisfied. This motion would delete the provisions currently in the bill and replace them with the provisions described in point "e" above.

An additional provision of current law allows brewers and wholesalers to provide reasonable business entertainment that is deductible under federal tax law to a Class "B" retailer by: (a) providing tickets or free admissions to athletic events, concerts or similar activities; or (b) providing food and beverages and paying for local ground transportation in connection with such activities and business meetings. However, the value of business entertainment provided may not exceed \$75 per day. The bill would increase this limit to \$500 per day and specify that such business entertainment could be provided on no more than 12 days per year. This motion would, instead, specify that such business entertainment could be provided on no more than eight days per year.

*Fair Dealership Provisions for Beer Wholesalers.* Under current provisions of the Fair Dealership Law (Chapter 135 of the statutes), the grantor of a dealership may not (directly or through any officer, agent or employee) terminate, cancel, fail to renew or substantially change the

competitive circumstances of a dealership agreement without good cause. The burden of proving good cause is on the grantor of the dealership. In general, a "dealership" is a contract or agreement by which a person is granted the right to sell or distribute goods or services or use a trade name, advertising or other commercial symbol, in which there is a community of interest in the business of offering, selling or distributing goods or services. The bill would specify that a contract or agreement by which an alcoholic beverages wholesaler is granted the right to sell or distribute beer would be a dealership, even if no community of interest exists. Such agreements would be subject to the provision described above regarding the termination of a dealership. A similar provision exists under current law for wholesalers of intoxicating liquor, but not for beer wholesalers.

The bill would also create a separate provision in Chapter 135 for dealerships that involve beer wholesalers. Under the bill, any person who assumes, in whole or in part, such a dealership following the grantor's termination, cancellation, or nonrenewal in whole or in part of a prior dealership agreement would be required to compensate the prior dealer for the fair market value of that portion of the dealership unless the grantor terminated the dealership for any of the following reasons: (a) the prior dealer engaged in material fraudulent conduct or made material and substantial misrepresentations in its dealings with the grantor or with others related to the dealership; (b) the prior dealer was convicted of, or pleaded no contest to, a felony crime substantially related to the dealer's ability to operate the dealership; or (c) the prior dealer knowingly distributed dealership products outside the territory authorized by the grantor.

The grantor would be required to advise the person assuming the dealership of these obligations prior to the person's assumption of the dealership. If the person assuming the dealership and the prior dealer agree in writing to the fair market value of that portion of the dealership, the person assuming the dealership would have to pay the agreed upon sum within 30 days of the agreement. If no written agreement for compensation of the prior dealer is reached within 30 days after the grantor's termination of the prior dealership agreement, the prior dealer could submit the dispute for binding arbitration through a nationally recognized arbitration association. Unless the parties agree otherwise, the arbitration would be conducted on an expedited basis to the extent an expedited proceeding is reasonably available through the arbitration association, and each party would have to pay an equal share of the cost of the arbitration.

This motion would establish the provisions regarding compensation paid to wholesalers in Chapter 125 of the Statutes instead of Chapter 135, which would require the Department of Revenue to administer and enforce the compensation provisions. [No state agency is required to enforce the fair dealership provisions under Chapter 135.] The motion would also specify that the compensation requirements would not apply if the wholesaler terminates the dealership.

This motion would also add a provision specifying that beer retailers could not condition the purchase of beer from a brewer or wholesaler upon the furnishing of anything of value by the brewer or wholesaler to the retailer.

### Tied-House Budget Amendment

- 1. Page 1172, line 9, reduce from "20" to "15", the number of days in which a secured party must sell fermented malt beverages.
- 2. Page 1173, lines 12 and 13, permit no more than \$2500 in point of sale at "any given time" rather than "during any calendar year."
- 3. Maintain current law on point of sale record-keeping; retailer only. Page 1173, Line 16 to 22, replace with the following after the reference to \$2,500 in line 16:

"Each recipient shall keep an invoice or credit memo containing the name of the donor and the number and value of items received under this paragraph. The value of an item is its cost to the donor. Each recipient shall make the records kept under this paragraph available to the department for inspection upon request."

- 4. Page 1174, lines 1 and 2, delete "signs made from other materials with a useful life of less than one year" and substitute "other like material".

- 5. On-premise Promotions: Page 1174, delete lines 6 to 13 and substitute:

"125.33(2)(L)2. Purchase advertising from a non-licensed third party, such as a radio station or promoter, which conducts national or regional sweepstakes, contests or promotions at Class "B" licensees or permittees selling its product. The non-licensed third party may promote the event or activity, including the location of the event or activity, if the advertisement lists 4 or more unaffiliated Class "B" licensees, and if no money is given to the Class "B" licensee for the privilege of conducting the sweepstakes, contest or promotion."

- 6. On-premise Promotions: Page 1174, delete lines 15 to 19 and substitute:

"125.33(2)(L)3. Conduct national or regional sweepstakes, contests or promotions described in par. (c) upon Class "B" premises and promote the event or activity, including the location of the event or activity, if the promotion includes 4 or more unaffiliated Class "B" licensees for each event or activity and if the Class "B" licensee on whose premises the event will occur receives no compensation for the privilege or opportunity of conducting the sweepstakes, contest or promotion."

- 7. Relocate brand compensation language to Chapter 125, Wisconsin statutes.

- 8. Clarify that no Class "A" or "B" licensee may condition the purchase of fermented malt beverage from a brewer or wholesaler upon the furnishing of any thing of value by the brewer or wholesaler to the licensee or to any person for the use, benefit or relief of any licensee.

- ✓ With respect to pre-promotion of events, a brewer who produces less than 30,000 barrels of beer annually would need to list only one Class "B" retailer in the pre-promotional advertising. Brewers who produce over 30,000 barrels would be required to include a minimum of four accounts in such advertising.
- ✓ Entertainment of a Class "B" licensee would be limited to \$500 per day and no more than eight days annually, rather than 12 days annually. It should be noted that under current law, entertainment can be provided at the limit of \$75 per day 365 days a year, or a possible total of \$27,375 per retail licensee per year.
- ✓ With respect to brand compensation, it will not apply when the wholesaler has terminated its relationship with the brewer. A relationship has terminated when the wholesaler has quit business, whether due to death or retirement, sale of business, or has not placed an order within a 30-day period.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb0687/1

ARG:.....

Handwritten notes: "cjs" and "soon" circled, "turned in 6/8 9:30 am" written next to them.

LFB: Larson – Fermented malt beverages – tied house and dealership laws  
(Motion #1293)

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

Handwritten note: "D - Note" circled.

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 1172, line 9: delete "30" and substitute "15".
- 3 2. Page 1173, line 12: delete the material beginning with "during" and ending
- 4 with "year," on line 13 and substitute "at any given time."
- 5 3. Page 1173, line 16: delete the material beginning with "Each" and ending
- 6 with "and" on line 20 and substitute "Each recipient shall keep an invoice or credit
- 7 memo containing the name of the donor and the number and value of items received
- 8 under this paragraph. The value of an item is its cost to the donor. Each".
- 9 4. Page 1174, line 1: delete the material beginning with "or vinyl" and ending
- 10 with "year," on line 2 and substitute "vinyl, or other like material".

1           **5.** Page 1174, line 5: delete lines 6 to 13 and substitute:

2           "125.33 (2) (L) 2. Purchase advertising from a person who does not hold a  
3 license under this chapter and who conducts national or regional sweepstakes,  
4 contests, or promotions on the premises of Class "B" licensees or permittees that sell  
5 the brewer's or wholesaler's products. The person may promote an event or activity  
6 in connection with a sweepstakes, contest, or promotion, including promoting the  
7 location of the event or activity, if the Class "B" licensee <sup>or permittee</sup> on whose premises the event  
8 or activity will occur does not receive money for hosting the event or activity and,  
9 except as provided in subd. 4., if the advertising for the event or activity identifies  
10 at least 4 unaffiliated Class "B" licensees <sup>or permittees</sup>."

11           **6.** Page 1174, line 15: delete lines 15 to 19 and substitute:

12           "125.33 (2) (L) 3. Conduct national or regional sweepstakes, contests, or  
13 promotions on the premises of Class "B" licensees or permittees that sell the brewer's  
14 or wholesaler's products. The brewer or wholesaler may promote an event or activity  
15 in connection with a sweepstakes, contest, or promotion, including promoting the  
16 location of the event or activity, if the Class "B" licensee <sup>or permittee</sup> on whose premises the event  
17 or activity will occur does not receive money for hosting the event or activity and,  
18 except as provided in subd. 4., if the advertising for the event or activity identifies  
19 at least 4 unaffiliated Class "B" licensees <sup>or permittees</sup>."

20           **7.** Page 1174, line 19: after that line insert:

20 *NOES.*

21           "SECTION 2810m. 125.33 (2) (L) 4. of the statutes is created to read:  
22           125.33 (2) (L) 4. A brewer that manufactures less than 30,000 barrels of  
23 fermented malt beverages annually may purchase advertising under subd. 2, and

1 may promote sweepstakes, contests, or promotions through advertising under subd.  
2 3., if the advertising identifies at least one Class "B" licensee<sup>or licensee</sup>.

3 **8.** Page 1174, line 25: delete "12" and substitute "8".

4 **9.** Page 1175, line 6: after that line insert:

5 **SECTION 2812m.** 125.33 (7m) of the statutes is created to read:

6 125.33 (7m) <sup>1</sup> CONDITIONAL PURCHASES. <sup>CS</sup> No Class "A" or Class "B" licensee may condition the purchase of  
7 fermented malt beverages from a brewer or wholesaler upon the furnishing by the  
8 brewer or wholesaler of any thing of value, other than the products purchased, to the  
9 licensee or to any person for the use, benefit, or relief of the licensee.

10 **SECTION 2812s.** 125.35 of the statutes is created to read:

11 **125.35 Fermented malt beverage dealerships.** (1) DEFINITIONS. In this  
12 section, unless otherwise qualified:

13 (a) "Dealer" has the meaning given in s. 135.02 (2).

14 (b) "Dealership" has the meaning given in s. 135.02 (3).

15 (c) "Grantor" has the meaning given in s. 135.02 (5).

16 (d) "Person" has the meaning given in s. 135.02 (6).

17 **(3) TERMINATION BY PRIOR DEALER.** A prior dealer is not entitled to compensation

18 under sub. (2) if, before any termination, cancellation, or nonrenewal by the grantor  
19 or assumption by another dealer of any dealership specified in sub. (2), the prior

20 dealer terminated business relations with the grantor by means of any of the  
21 following:

22 (a) Death, retirement, or dissolution of the prior dealer.

23 (b) Failure of the prior dealer to engage in the operation of the dealership  
24 business, including sale of the dealership business.

insert  
B

1 (c) Failure of the prior dealer to order goods from the grantor within the  
2 previous 30 days.

3 **10.** Page 1312, line 23: delete the material beginning with that line and  
4 ending with page 1314, line 2.

5 **11.** Page 1808, line 19: delete "135.02 (3) (c) and 135.067" and substitute  
6 "125.35 and 135.02 (3) (c)".

7 (END)

D-Note

1 and if the Class "B" licensee on whose premises the event will occur does not receive  
2 compensation, directly or indirectly, for hosting the event.

3 SECTION 11. 125.33 (2) (n) 2. of the statutes is amended to read:

4 125.33 (2) (n) 2. Notwithstanding subd. 1., no brewer or wholesaler may  
5 provide business entertainment to a Class "B" licensee or permittee under subd. 1.  
6 in one day that has a value exceeding \$75 ~~\$500~~, and no brewer or wholesaler may  
7 provide business entertainment to a Class "B" licensee or permittee under subd. 1.  
8 on more than 12 days in any calendar year.

9 SECTION 12. 125.33 (2s) of the statutes is amended to read:

10 125.33 (2s) EXCEPTION FOR RETAIL TRADE ASSOCIATION CONTRIBUTIONS.  
11 Notwithstanding the prohibitions in sub. (1), a brewer that produces 350,000 or more  
12 barrels of fermented malt beverages annually or wholesaler may contribute money  
13 or other things of value to a bona fide national or, statewide, or local trade association  
14 which derives its principle income from membership dues of Class "B" licensees.

15 SECTION 13. 135.02 (3) (c) of the statutes is created to read:

16 135.02 (3) (c) A contract or agreement, either expressed or implied, whether  
17 oral or written, between 2 or more persons by which a wholesaler, as defined in s.  
18 125.02 (21), is granted the right to sell or distribute fermented malt beverages or use  
19 a trade name, trademark, service mark, logotype, brand, advertising, or other  
20 commercial symbol related to fermented malt beverages.

21 SECTION 14. ~~135.067~~ of the statutes is created to read:

22 ~~135.067 Fermented malt Beverage Dealerships.~~ <sup>(B)</sup> <sup>(2)</sup> COMPENSATION OF  
23 PRIOR DEALER. Notwithstanding s. 135.03, any person who assumes, in whole or in  
24 part, a dealership described in s. 135.02 (3) (c) following the grantor's termination,  
25 cancellation, or nonrenewal in whole or in part of a prior dealership agreement shall

and except as provided in sub. (3),

Insert A

1 compensate the prior dealer for the fair market value of that portion of the dealership  
2 assumed unless the grantor terminated, canceled, or failed to renew for any of the  
3 following reasons:

4 (a) The prior dealer engaged in material fraudulent conduct or made material  
5 and substantial misrepresentations in its dealings with the grantor or with others  
6 related to the dealership.

7 (b) The prior dealer was convicted of, or pleaded no contest to, a felony crime  
8 substantially related to the dealer's ability to operate the dealership.

9 (c) The prior dealer knowingly distributed dealership products outside the  
10 territory authorized by the grantor.

11 ~~§~~ <sup>(4)</sup> BINDING ARBITRATION. The grantor shall advise the person assuming the  
12 dealership of the person's obligations under sub. <sup>(2)</sup> prior to the person's assumption  
13 of the dealership. If the person assuming a dealership under sub. <sup>(2)</sup> and the prior  
14 dealer agree in writing to the fair market value of that portion of the dealership  
15 assumed, the person assuming the dealership shall pay the agreed upon sum to the  
16 prior dealer within 30 days of the date on which the parties reached the agreement.  
17 If no written agreement for compensation of the prior dealer is reached within 30  
18 days after the grantor's termination, cancellation, or nonrenewal of the prior  
19 dealership agreement, the prior dealer may submit the dispute for binding  
20 arbitration, subject to ch. 788, through a nationally recognized arbitration  
21 association. Unless the parties agree otherwise, the arbitration shall be conducted  
22 on an expedited basis to the extent an expedited proceeding is reasonably available  
23 through the arbitration association, and each party shall pay an equal share of the  
24 cost of the arbitration. ↘

insert A cont'd

insert B

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

LRBb0687/1dn

ARG:.....

g's

ATTN: Drew Larson

Item 2 of the attached draft relates to subpart b. of the motion and replaces the phrase "during any calendar year" with "at any given time" in amended s. 125.33 (2) (a). This new language is so imprecise that, for practical purposes, it renders s. 125.33 (2) (a) unenforceable. With the new language, the agent of a brewer or wholesaler may carry a sign valued at \$2,500 into a retailer's premises, provide the sign to the retailer, return to his vehicle in the parking lot, carry another sign of equal value into the retailer, and assert that the signs were provided at two different times. We understand that the Joint Finance Committee has already acted on the motion, but we would not ordinarily draft a statute in this fashion. Can you provide me with a fixed time frame to include in the statute in lieu of "at any given time"?

In addition, item 9 of the attached draft relates to subpart f. of the motion and requires that Fair Dealership provisions be placed in chapter 125, which is a poor statutory fit. While the notes refer to department of revenue (DOR) enforcement if these provisions are included in ch. 125, the draft provides a purely private method of compensation and dispute resolution, and there is in fact nothing in the draft for DOR to enforce.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

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

LRBb0687/1dn  
ARG:cjs:jf

June 8, 2001

ATTN: Drew Larson

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In addition, item 9 of the attached draft relates to subpart f. of the motion and requires that Fair Dealership provisions be placed in chapter 125, which is a poor statutory fit. While the notes refer to department of revenue (DOR) enforcement if these provisions are included in ch. 125, the draft provides a purely private method of compensation and dispute resolution, and there is in fact nothing in the draft for DOR to enforce.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

LFB: Larson – Fermented malt beverages – tied house and dealership laws  
(Motion #1293)

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144**

1           At the locations indicated, amend the bill as follows:

2           **1.** Page 1172, line 9: delete “30” and substitute “15”.

3           **2.** Page 1173, line 12: delete the material beginning with “during” and ending  
4 with “year,” on line 13 and substitute “at any given time,”.

5           **3.** Page 1173, line 16: delete the material beginning with “Each” and ending  
6 with “and” on line 20 and substitute “Each recipient shall keep an invoice or credit  
7 memo containing the name of the donor and the number and value of items received  
8 under this paragraph. The value of an item is its cost to the donor. Each”.

9           **4.** Page 1174, line 1: delete the material beginning with “or vinyl” and ending  
10 with “year,” on line 2 and substitute “vinyl, or other like material”.

1           **5.** Page 1174, line 5: delete lines 6 to 13 and substitute:

2           “125.33 (2) (L) 2. Purchase advertising from a person who does not hold a  
3 license under this chapter and who conducts national or regional sweepstakes,  
4 contests, or promotions on the premises of Class “B” licensees or permittees that sell  
5 the brewer’s or wholesaler’s products. The person may promote an event or activity  
6 in connection with a sweepstakes, contest, or promotion, including promoting the  
7 location of the event or activity, if the Class “B” licensee or permittee on whose  
8 premises the event or activity will occur does not receive money for hosting the event  
9 or activity and, except as provided in subd. 4., if the advertising for the event or  
10 activity identifies at least 4 unaffiliated Class “B” licensees or permittees.”

11           **6.** Page 1174, line 15: delete lines 15 to 19 and substitute:

12           “125.33 (2) (L) 3. Conduct national or regional sweepstakes, contests, or  
13 promotions on the premises of Class “B” licensees or permittees that sell the brewer’s  
14 or wholesaler’s products. The brewer or wholesaler may promote an event or activity  
15 in connection with a sweepstakes, contest, or promotion, including promoting the  
16 location of the event or activity, if the Class “B” licensee or permittee on whose  
17 premises the event or activity will occur does not receive money for hosting the event  
18 or activity and, except as provided in subd. 4., if the advertising for the event or  
19 activity identifies at least 4 unaffiliated Class “B” licensees or permittees.”

20           **7.** Page 1174, line 19: after that line insert:

21           “**SECTION 2810m.** 125.33 (2) (L) 4. of the statutes is created to read:

22           125.33 (2) (L) 4. A brewer that manufactures less than 30,000 barrels of  
23 fermented malt beverages annually may purchase advertising under subd. 2, and

1 may promote sweepstakes, contests, or promotions through advertising under subd.  
2 3., if the advertising identifies at least one Class “B” licensee or permittee.”.

3 **8.** Page 1174, line 25: delete “12” and substitute “8”.

4 **9.** Page 1175, line 6: after that line insert:

5 “**SECTION 2812m.** 125.33 (7m) of the statutes is created to read:

6 **125.33 (7m) CONDITIONAL PURCHASES.** No Class “A” or Class “B” licensee may  
7 condition the purchase of fermented malt beverages from a brewer or wholesaler  
8 upon the furnishing by the brewer or wholesaler of any thing of value, other than the  
9 products purchased, to the licensee or to any person for the use, benefit, or relief of  
10 the licensee.

11 **SECTION 2812s.** 125.35 of the statutes is created to read:

12 **125.35 Fermented malt beverage dealerships.** (1) **DEFINITIONS.** In this  
13 section, unless otherwise qualified:

14 (a) “Dealer” has the meaning given in s. 135.02 (2).

15 (b) “Dealership” has the meaning given in s. 135.02 (3).

16 (c) “Grantor” has the meaning given in s. 135.02 (5).

17 (d) “Person” has the meaning given in s. 135.02 (6).

18 **(2) COMPENSATION OF PRIOR DEALER.** Notwithstanding s. 135.03, and except as  
19 provided in sub. (3), any person who assumes, in whole or in part, a dealership  
20 described in s. 135.02 (3) (c) following the grantor’s termination, cancellation, or  
21 nonrenewal in whole or in part of a prior dealership agreement shall compensate the  
22 prior dealer for the fair market value of that portion of the dealership assumed unless  
23 the grantor terminated, canceled, or failed to renew for any of the following reasons:

1 (a) The prior dealer engaged in material fraudulent conduct or made material  
2 and substantial misrepresentations in its dealings with the grantor or with others  
3 related to the dealership.

4 (b) The prior dealer was convicted of, or pleaded no contest to, a felony crime  
5 substantially related to the dealer's ability to operate the dealership.

6 (c) The prior dealer knowingly distributed dealership products outside the  
7 territory authorized by the grantor.

8 **(3) TERMINATION BY PRIOR DEALER.** A prior dealer is not entitled to compensation  
9 under sub. (2) if, before any termination, cancellation, or nonrenewal by the grantor  
10 or assumption by another dealer of any dealership specified in sub. (2), the prior  
11 dealer terminated business relations with the grantor by means of any of the  
12 following:

13 (a) Death, retirement, or dissolution of the prior dealer.

14 (b) Failure of the prior dealer to engage in the operation of the dealership  
15 business, including sale of the dealership business.

16 (c) Failure of the prior dealer to order goods from the grantor within the  
17 previous 30 days.

18 **(4) BINDING ARBITRATION.** The grantor shall advise the person assuming the  
19 dealership of the person's obligations under sub. (2) prior to the person's assumption  
20 of the dealership. If the person assuming a dealership under sub. (2) and the prior  
21 dealer agree in writing to the fair market value of that portion of the dealership  
22 assumed, the person assuming the dealership shall pay the agreed upon sum to the  
23 prior dealer within 30 days of the date on which the parties reached the agreement.  
24 If no written agreement for compensation of the prior dealer is reached within 30  
25 days after the grantor's termination, cancellation, or nonrenewal of the prior

1 dealership agreement, the prior dealer may submit the dispute for binding  
2 arbitration, subject to ch. 788, through a nationally recognized arbitration  
3 association. Unless the parties agree otherwise, the arbitration shall be conducted  
4 on an expedited basis to the extent an expedited proceeding is reasonably available  
5 through the arbitration association, and each party shall pay an equal share of the  
6 cost of the arbitration.”.

7 **10.** Page 1312, line 23: delete the material beginning with that line and  
8 ending with page 1314, line 2.

9 **11.** Page 1808, line 19: delete “135.02 (3) (c) and 135.067” and substitute  
10 “125.35 and 135.02 (3) (c)”.

11 (END)