

2005 DRAFTING REQUEST

Bill

Received: **02/11/2005**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pettis (608) 267-2365**

By/Representing: **Al Colvin (aide)**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Beverages**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Pettis@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Beer wholesalers having a warehouse in an adjoining state

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>
/?							
/P1	agary 03/11/2005	jdyer 04/04/2005	jfrantze 04/04/2005	_____	mbarman 04/04/2005		
/P2	agary 08/02/2005	kfollett 08/11/2005	pgreensl 08/11/2005	_____	lemery 08/11/2005		
/1	agary 10/11/2005	kfollett 10/11/2005	jfrantze 10/11/2005	_____	sbasford 10/11/2005	sbasford 10/12/2005	

FE Sent For:

<END>

↳ ~~Not~~ Needed

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/P1	agary 03/11/2005	jdyer 04/04/2005	jfrantze 04/04/2005	_____	mbarman 04/04/2005		
/P2	agary 08/02/2005	kfollett 08/11/2005	pgreensl 08/11/2005	_____	lemery 08/11/2005		

FE Sent For:

1/1/05
10/1/05

Self
10/1/05 <END>

2005 DRAFTING REQUEST

Bill

Received: **02/11/2005**

Wanted: **As time permits**

For: **Jeff Fitzgerald (608) 266-2540**

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

May Contact:

Subject: **Beverages**

Submit via email: **YES**

Requester's email: **Rep.Fitzgerald@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Beer wholesalers having a warehouse in an adjoining state

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>
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/P2	agary 08/02/2005	kfollett 08/11/2005	pgreensl 08/11/2005	_____	lemery 08/11/2005		

FE Sent For:

<END>

*changed to
Rep. Pettis -
see email*

Received By: **agary**

Identical to LRB:

By/Representing: **Brian Pleva (aide)**

Drafter: **agary**

Addl. Drafters:

Extra Copies:

2005 DRAFTING REQUEST

Bill

Received: 02/11/2005

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Wanted: As time permits

Identical to LRB:

For: Jeff Fitzgerald (608) 266-2540

By/Representing: Brian Pleva (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Beverages

Extra Copies:

Submit via email: YES

Requester's email: Rep.Fitzgerald@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

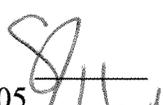
Topic:

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FE Sent For:

1 P2 kjf
8/11



<END>

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1?	agary	PI 4/4 jld	Jo 4/4	J/RS 4/4			

FE Sent For:

<END>

Gary, Aaron

From: Pleva, Brian
Sent: Friday, February 11, 2005 9:20 AM
To: Gary, Aaron
Subject: Drafting Request

Aaron, we would like to get the (the gist of) following language drafted:

125.28(5)

If the wholesaler's warehouse is located in an adjoining state which permits wholesalers licensed in this state to deliver fermented malt beverages in that state without warehousing in that state, the wholesaler's license shall be issued by the governing body of the municipality in which some part of the wholesaler's business is conducted in this state.

Thank you!

Brian Pleva
Office of Rep. Jeff Fitzgerald
Assistant Majority Leader
(608) 266-2540

4/8

in 3/11

Jed

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

Gen

1 AN ACT ...; relating to: fermented malt beverages wholesalers. ✓

Analysis by the Legislative Reference Bureau

Current law generally prohibits a person from selling alcohol beverages unless the seller possesses a license or permit authorizing the sale. A beer wholesaler's license authorizes the license holder to sell to retailers or wholesalers, from premises within the issuing municipality, beer in original packages that may not be consumed on or about the wholesaler's premises. ✓ However, in the case of a foreign corporation or foreign limited liability company whose wholesale premises is located outside of this state, the wholesaler's license can be issued by the governing body of the municipality in which some part of the wholesaler's business is conducted in this state. A beer wholesaler may not receive beer directly shipped from outside this state unless the shipper holds an out-of-state ✓ shipper's permit. All beer shipments to a wholesaler in this state, whether shipped to the wholesaler from inside this state or from outside this state, must be unloaded in and distributed from the wholesaler's warehouse in this state.

Under this bill, if a beer wholesaler's only warehouse is located in an adjoining state and that adjoining state allows wholesalers licensed in this state to deliver beer in that state without warehousing it in that state, the wholesaler's license can be issued by the governing body of the municipality in which some part of the wholesaler's business is conducted in this state. ✓ All beer shipments to the wholesaler must be unloaded in and distributed from this warehouse in the adjoining state, and

the wholesaler may not receive beer directly shipped from outside this state unless the shipper holds an out-of-state shipper's permit.

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

1 SECTION 1. 125.28 (1) of the statutes is amended to read:

2 125.28 (1) Every municipal governing body may issue licenses to wholesalers
3 for the sale of fermented malt beverages from premises within the municipality. A
4 wholesaler's license authorizes sales of fermented malt beverages only in original
5 packages or containers to retailers or wholesalers, not to be consumed in or about the
6 premises where sold. In the case of a foreign corporation or foreign limited liability
7 company whose wholesale premises is located outside of this state, and in the case
8 of a wholesaler whose only warehouse is located in an adjoining state that allows
9 wholesalers licensed in this state to deliver fermented malt beverages in that state
10 without warehousing them in that state, the wholesaler's license shall be issued by
11 the governing body of the municipality in which some part of the wholesaler's
12 business is conducted in this state. No additional license or permit is required for
13 the solicitation of orders for sale to or by licensed wholesalers.

History: 1981 c. 79; 1989 a. 31, 253; 1993 a. 112, 259, 378, 491; 1995 a. 225; 1999 a. 163; 2003 a. 250.

14 SECTION 2. 125.30 (1) of the statutes is amended to read:

15 125.30 (1) The department shall issue out-of-state shippers' permits which
16 authorize the permittee to ship fermented malt beverages only to holders of a
17 wholesaler's license issued under s. 125.28. No person may receive fermented malt
18 beverages in this state or, in the case of a wholesaler licensed under s. 125.28 whose
19 only warehouse is located in an adjoining state, in the adjoining state, which have
20 been directly shipped from outside this state by any person other than the holder of
21 a permit issued under this section. All shipments of fermented malt beverages to a

1 wholesaler of fermented malt beverages in this state or, in the case of a wholesaler
2 licensed under s. 125.28 whose only warehouse is located in an adjoining state, in the
3 adjoining state, whether shipped to the wholesaler from inside this state or from
4 outside this state, shall be unloaded in and distributed from the wholesaler's
5 warehouse in this state except that, in the case of a wholesaler licensed under s.
6 125.28 whose only warehouse is located in an adjoining state, such shipments shall
7 be unloaded in and distributed from the wholesaler's warehouse in the adjoining
8 state.

9 History: 1981 c. 79; 1989 a. 253; 1993 a. 112, 259, 491; 1995 a. 27; 1997 a. 166.

(END)

A - Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2081/P1dn

ARG: :...
Jld

ATTN: Brian Pleva

the ———
Please review the attached draft carefully to ensure that it is consistent with your intent. As you can see from the attached draft, there is a sentence in s. 125.28 (1), stats., relating to “a foreign corporation or foreign limited liability company whose wholesale premises is located outside of this state” that is quite similar to the change requested in the drafting instructions. I am uncertain how this provision in s. 125.28 (1) interacts with s. 125.28 (3) requirement that every license “particularly describe the premises.” With respect to the attached draft, I am uncertain whether the wholesaler would have a licensed premises in this state that is not a warehouse, or whether the only licensed premises would be the warehouse in the adjoining state. Please advise if you think s. 125.28 (3) requirement that every license “particularly describe the premises” should not apply under the circumstances described in the drafting instructions. the

in s. 125.28(3)
Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible “1” draft.

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

LRB-2081/P1dn
ARG:jld:jf

April 4, 2005

ATTN: Brian Pleva

Please review the attached draft carefully to ensure that it is consistent with your intent. As you can see from the attached draft, there is a sentence in s. 125.28 (1), stats., relating to "a foreign corporation or foreign limited liability company whose wholesale premises is located outside of this state" that is quite similar to the change requested in the drafting instructions. I am uncertain how this provision in s. 125.28 (1) interacts with the requirement in s. 125.28 (3) that every license "particularly describe the premises." With respect to the attached draft, I am uncertain whether the wholesaler would have a licensed premises in this state that is not a warehouse, or whether the only licensed premises would be the warehouse in the adjoining state. Please advise if you think the requirement in s. 125.28 (3) that every license "particularly describe the premises" should not apply under the circumstances described in the drafting instructions.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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

Gary, Aaron

From: Pleva, Brian
Sent: Thursday, July 28, 2005 9:44 AM
To: Gary, Aaron
Subject: LRB-2081 & LRB-3112

Aaron, we'd like an LRB-2081/2 based upon the wholesaler reciprocity provision we currently have in LRB-3112.

As you may remember, we requested LRB-2081 to address a border "glitch." As a refresher, we want MN-licensed wholesalers to be able to get a WI-wholesale license but deliver to WI retailers from the MN-warehouse. Minnesota law allows our wholesalers the same if WI has a reciprocal. Wholesalers have to be licensed by the state they deliver to, but can deliver from a warehouse in the neighboring state. It would save a distributor from having to build a warehouse in Minnesota and move 20 of his jobs over the border.

In doing this, I think we need to re-do the "come to rest" provisions (as you did in LRB-3112).

Long way of saying, in essence, I'd like to pull that piece from LRB-3112 and put it in as a /2 version of LRB-2081. Does that make sense?

Brian Pleva
Office of Rep. Jeff Fitzgerald
Assistant Majority Leader
(608) 266-2540



State of Wisconsin
2005 - 2006 LEGISLATURE

soon

LRB-2081/P1
ARG:jld:jf

P2

in 8/1

RMN
KJF

D-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

- 1 AN ACT to amend 125.28 (1) and 125.30 (1) of the statutes; relating to:
- 2 fermented malt beverages wholesalers.

Analysis by the Legislative Reference Bureau

Current law generally prohibits a person from selling alcohol beverages unless the seller possesses a license or permit authorizing the sale. A beer wholesaler's license authorizes the license holder to sell to retailers or wholesalers, from premises within the issuing municipality, beer in original packages that may not be consumed on or about the wholesaler's premises. However, in the case of a foreign corporation or foreign limited liability company whose wholesale premises is located outside of this state, the wholesaler's license can be issued by the governing body of the municipality in which some part of the wholesaler's business is conducted in this state. A beer wholesaler may not receive beer directly shipped from outside this state unless the shipper holds an out-of-state shipper's permit. All beer shipments to a wholesaler in this state, whether shipped to the wholesaler from inside this state or from outside this state, must be unloaded in and distributed from the wholesaler's warehouse in this state.

Under this bill, if a beer wholesaler's only warehouse is located in an adjoining state and that adjoining state allows wholesalers licensed in this state to deliver beer in that state without warehousing it in that state, the wholesaler's license can be issued by the governing body of the municipality in which some part of the wholesaler's business is conducted in this state. All beer shipments to the wholesaler must be unloaded in and distributed from this warehouse in the adjoining state, and

insert
ANAL

the wholesaler may not receive beer directly shipped from outside this state unless the shipper holds an out-of-state shipper's permit.

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

1 **SECTION 1.** 125.28 (1) of the statutes is amended to read:

2 125.28 (1) Every municipal governing body may issue licenses to wholesalers
3 for the sale of fermented malt beverages from premises within the municipality. A
4 wholesaler's license authorizes sales of fermented malt beverages only in original
5 packages or containers to retailers or wholesalers, not to be consumed in or about the
6 premises where sold. In the case of a foreign corporation or foreign limited liability
7 company whose wholesale premises is located outside of this state, and in the case
8 of a wholesaler whose only warehouse is located in an adjoining state that allows
9 wholesalers licensed in this state to deliver fermented malt beverages in that state
10 without warehousing them in that state, the wholesaler's license shall be issued by
11 the governing body of the municipality in which some part of the wholesaler's
12 business is conducted in this state. No additional license or permit is required for
13 the solicitation of orders for sale to or by licensed wholesalers.

14 **SECTION 2.** 125.30 (1) of the statutes is amended to read:

15 125.30 (1) The department shall issue out-of-state shippers' permits which
16 authorize the permittee to ship fermented malt beverages only to holders of a
17 wholesaler's license issued under s. 125.28. No person may receive fermented malt
18 beverages in this state or, in the case of a wholesaler licensed under s. 125.28 whose
19 only warehouse is located in an adjoining state, in the adjoining state, which have
20 been directly shipped from outside this state by any person other than the holder of
21 a permit issued under this section. All shipments of fermented malt beverages to a

1 wholesaler of fermented malt beverages in this state or, in the case of a wholesaler
2 licensed under s. 125.28 whose only warehouse is located in an adjoining state, in the
3 adjoining state, whether shipped to the wholesaler from inside this state or from
4 outside this state, shall be unloaded in and distributed from the wholesaler's
5 warehouse in this state except that, in the case of a wholesaler licensed under s.
6 125.28 whose only warehouse is located in an adjoining state, such shipments shall
7 be unloaded in and distributed from the wholesaler's warehouse in the adjoining
8 state.

9 →

(END)

Insert 3-8 A
Insert 3-8 B
Insert 3-8 C
Insert 3-9

D-Note

1 **SECTION 1.** 125.01 of the statutes is amended to read:

2 **125.01 Legislative intent.** This chapter shall be construed as an enactment
3 of statewide concern for the purpose of providing a uniform regulation of the sale of
4 alcohol beverages of the legislature's support for the 3-tier system for alcohol
5 beverages production, distribution, and sale that, through uniform statewide
6 regulation, provides this state regulatory authority over the production,
7 distribution, and sale of alcohol beverages by and to its citizens, for the benefit of the
8 public health and welfare and this state's economic stability.

9 **SECTION 2.** 125.04 (3) (e) 1. of the statutes is amended to read:

10 125.04 (3) (e) 1. Each application for a license, other than a manager's or
11 operator's license, shall be sworn to by the applicant. The applicant shall file the
12 application for a license with the municipal clerk of the intended place of sale, except
13 that an applicant for a license under s. 125.28 may file the application with the
14 municipal clerk where any warehouse described in s. 125.28 (1m) (a) is located.

15 **SECTION 3.** 125.04 (3) (f) 1. of the statutes is amended to read:

16 125.04 (3) (f) 1. Except as provided in subs. 2. and 3. and sub. (3) (e) 1., all
17 applications for licenses to sell alcohol beverages shall be filed with the clerk of the
18 municipality in which the premises are located at least 15 days prior to the granting
19 of the license.

20 **SECTION 4.** 125.04 (12) (a) of the statutes is amended to read:

21 125.04 (12) (a) *From place to place.* Every alcohol beverage license or permit
22 may be transferred to another place or premises within the same municipality. An
23 alcohol beverage warehouse permit under s. 125.19, a winery permit under s. 125.53,
24 or an intoxicating liquor wholesaler's permit under s. 125.54 may be transferred to
25 another premises within this state. ~~A Class "A" license and a wholesaler's license~~

1 125.25 (3) Class "A" licenses shall particularly describe the premises for which
2 issued and are not transferable, except under sub. (2) (b) 4. and s. 125.04 (12). A Class
3 "A" license is subject to revocation for violation of any of the terms or provisions
4 thereof.

5 **SECTION 10.** 125.26 (2) (b) 2. a. of the statutes is amended to read:

6 125.26 (2) (b) 2. a. ~~Except as provided in s. 125.29, beginning on May 5, 1994,~~
7 ~~a-~~ A Class "B" license may not be issued to a person holding a wholesaler's license
8 issued under s. 125.28 or to a person who has a direct or indirect ownership interest
9 in ~~such a wholesaler or in~~ a premises operating under a wholesaler's license issued
10 under s. 125.28.

11 **SECTION 11.** 125.26 (2) (b) 2. b. of the statutes is amended to read:

12 125.26 (2) (b) 2. b. ~~Notwithstanding subd. 2. a., a-~~ A person who, as authorized
13 under this subd. 2. b., 2003 stats., holds a Class "B" license and a wholesaler's license
14 issued under s. 125.28, both of which licenses were issued before May 5, 1994, may,
15 subject to ss. 125.04 and 125.12, ~~not renew and continue to hold both licenses after~~
16 the effective date of this subd. 2. b. [revisor inserts date].

17 **SECTION 12.** 125.26 (2) (b) 2. c. of the statutes is repealed.

18 **SECTION 13.** 125.28 (1) of the statutes is renumbered 125.28 (1) (a) and
19 amended to read:

20 125.28 (1) (a) ~~Every~~ Subject to par. (b), every municipal governing body may
21 issue licenses to wholesalers ~~for~~ that maintain any warehouse specified under sub.
22 (1m) (a) within the municipality authorizing the sale of fermented malt beverages
23 ~~from premises within the municipality.~~ A wholesaler's license authorizes sales of
24 fermented malt beverages only in original packages or containers to retailers or
25 wholesalers or to employees of the wholesaler holding the license, not to be consumed

Insert
3-8 B

1 in or about the wholesaler's premises where sold. In the case of a foreign corporation
2 or foreign limited liability company whose wholesale premises is located outside of
3 this state,

4 (b) If a wholesaler does not maintain a warehouse specified under sub. (1m) (a)
5 in this state but is licensed and maintains a warehouse in an adjoining state that
6 allows wholesalers licensed in this state to deliver fermented malt beverages to
7 retailers in the adjoining state without warehousing in that state, the wholesaler's
8 license shall be issued by the governing body of the municipality in which some part
9 of the wholesaler's business is conducted in this state. Notwithstanding s. 125.04 (5)
10 (a) 2. and (c) and (6), the municipal governing body may issue the wholesaler's license
11 to a wholesaler described in this paragraph who is a natural person and not a
12 resident of this state or that is a corporation or limited liability company and has not
13 appointed an agent in this state.

14 (c) No additional license or permit is required for the solicitation of orders for
15 sale to or by licensed wholesalers.

16 **SECTION 14.** 125.28 (1m) of the statutes is created to read:

17 125.28 (1m) (a) Except as provided in par. (b), any person holding a
18 wholesaler's license under this section shall own or lease warehouse facilities on the
19 premises described in the wholesaler's license, or on any warehouse premises for
20 which the wholesaler also holds a permit issued under s. 125.19, that are capable of
21 warehousing fermented malt beverages. All shipments of fermented malt beverages
22 to the wholesaler, whether shipped to the wholesaler from inside this state or from
23 outside this state, shall be unloaded in and distributed from these warehouse
24 facilities.

insert 3-8 B cont'd

1 (b) This subsection does not apply to a wholesaler issued a wholesaler's license
2 under sub. (1) (b).

3 **SECTION 15.** 125.28 (2) (b) (intro.), (2) (b) 1. (intro.) and d. and (2) (b) 2. of the
4 statutes are consolidated, renumbered 125.28 (2) (b) and amended to read:

5 125.28 (2) (b) Except as provided in par. (c) and s. 125.29, beginning on May 5,
6 1994, a wholesaler's license may not be issued to any of the following: 1. A a person
7 holding ~~one or more of the following licenses or permits:~~ d. An industrial
8 fermented malt beverages permit issued under s. 125.275. 2. A or to a person who
9 has a direct or indirect ownership interest in ~~a premises operating under one or more~~
10 ~~of the licenses or permits listed in subd. 1. a. to d~~ an industrial fermented malt
11 beverages permit issued under s. 125.275.

12 **SECTION 16.** 125.28 (2) (b) 1. a. to c. of the statutes are repealed.

13 **SECTION 17.** 125.28 (2) (c) of the statutes is amended to read:

14 125.28 (2) (c) 1. A person who holds a wholesaler's license and a license or
15 permit specified in par. (b) 1., ~~all, both~~ of which licenses or permits were issued before
16 May 5, 1994, may, subject to ss. 125.04 and 125.12, renew and continue to hold all
17 ~~of the licenses or permits~~ each license and permit.

18 2. ~~Except as provided in ss. 125.04 (12) (a) and 125.25 (2) (b) 4., if~~ If a person
19 holding a wholesaler's license and a license or permit under subd. 1. fails to renew
20 ~~a~~ the license or permit, is denied renewal of ~~a~~ the license or permit under s. 125.12
21 or has ~~one of the licenses or permits~~ the license or permit suspended or revoked under
22 s. 125.12, the person is subject to par. (b) with respect to holding ~~a license or permit~~
23 ~~of that type~~ each license and permit after the failure or denial of renewal or the
24 revocation or suspension of the license or permit.

25 **SECTION 18.** 125.28 (2) (d) of the statutes is created to read:

1 (3) If any brewer or out-of-state shipper lends money or extends credit to a
2 wholesaler and the wholesaler defaults under the terms by which the loan was made
3 or credit extended, the brewer or out-of-state shipper may acquire ownership of or
4 an interest in the business, including any corporate stock, or assets of the wholesaler
5 as a result of any judgment against the wholesaler, or of any written agreement
6 entered into with the wholesaler, arising from the default, but the ownership or other
7 interest may be maintained only for the purpose of facilitating an orderly transfer
8 of the business or assets to an owner not affiliated with the brewer or out-of-state
9 shipper. The brewer or out-of-state shipper shall divest itself of its ownership of or
10 interest in the business or assets of the wholesaler within 2 years of acquiring the
11 ownership or other interest.

12 (4) A brewer or out-of-state shipper that maintains an ownership interest in
13 a fermented malt beverage wholesaler on the effective date of this subsection
14 [revisor inserts date] may continue to maintain the interest after the effective date
15 of this subsection [revisor inserts date].

16 (5) A brewer or out-of-state shipper that manufactures less than 4,000 barrels
17 of fermented malt beverages annually may own or have an interest in a wholesaler
18 that sells only products manufactured by the brewer or out-of-state shipper.

19 **SECTION 26.** 125.30 (1) of the statutes is amended to read:

20 125.30 (1) The department shall issue out-of-state shippers' permits which
21 authorize the permittee to ship fermented malt beverages only to holders of a
22 wholesaler's license issued under s. 125.28. No person may receive fermented malt
23 beverages in this state which have been directly shipped from outside this state by
24 any person other than the holder of a permit issued under this section. All shipments
25 of fermented malt beverages to a wholesaler of fermented malt beverages in this

insert
3-8c

1 state, whether shipped to the wholesaler from inside this state or from outside this
2 state, ~~shall be unloaded in and distributed from the wholesaler's warehouse in this~~
3 state are subject to the provisions of s. 125.28 (1m).

4 **SECTION 27.** 125.30 (4) of the statutes is created to read:

5 125.30 (4) (a) 1. Except as provided in s. 125.295, no person holding a
6 wholesaler's license issued under s. 125.28 may be issued an out-of-state shipper's
7 permit under this section.

8 2. Except as provided in s. 125.295, a person holding an out-of-state shipper's
9 permit under this section may not hold a wholesaler's license under s. 125.28 or have
10 any direct or indirect ownership interest in a wholesaler holding a license under s.
11 125.28.

12 3. Except as provided in s. 125.295, a permit may not be issued under this
13 section to an out-of-state shipper if any wholesaler licensed under s. 125.28 has any
14 direct or indirect ownership interest in the out-of-state shipper.

15 (b) A permit may not be issued under this section to an out-of-state shipper
16 if any Class "A" licensee or Class "B" licensee or permittee has any direct or indirect
17 ownership interest in the out-of-state shipper.

18 **SECTION 28.** 125.31 (2) of the statutes is renumbered 125.29 (3) (b) and
19 amended to read:

20 125.29 (3) (b) A brewer may own, maintain or operate depots and warehouses
21 from which sales of fermented malt beverages, not for consumption in or about the
22 premises where sold, may be made in original packages to ~~retailers and~~ wholesalers.
23 ~~A separate wholesaler's license is required for each depot or warehouse owned,~~
24 ~~maintained or operated.~~

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2081/P2ins
ARG:.....

INSERT ANAL:

This bill authorizes a municipality to issue a beer wholesaler's license to any of the following:

1. A wholesaler that maintains a warehouse within the municipality.
2. A wholesaler that does not maintain a warehouse in this state but that is licensed and maintains a warehouse in an adjoining state that allows Wisconsin wholesalers to deliver beer to retailers in that state without warehousing in that state (nonresident wholesaler) if some part of the wholesaler's business is conducted in the municipality. The wholesaler is not required to be a resident of this state.

The bill generally requires that each licensed beer wholesaler own or lease beer warehouse facilities on the wholesaler's licensed premises or on premises for which the wholesaler holds an alcohol beverage warehouse permit. All beer shipments to the wholesaler must be unloaded in and distributed from these warehouse facilities. However, these requirements do not apply to a nonresident wholesaler. Nonresident wholesalers are also not prohibited from receiving, outside this state, beer shipped by a person not holding a Wisconsin out-of-state shipper's permit.

INSERT 3-9:

SECTION 1. Initial applicability.

- (1) This act first applies to fermented malt beverages wholesalers' licenses issued on the effective date of this subsection.

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

LRB-2081/P2dn

ARG: *kgj*

Date

page
ATTN: Brian Pleva

X
Please review the attached draft carefully to ensure that it is consistent with your intent. I was not certain how much of LRB-3112 you wanted to substitute for the text of LRB-2081/P1; I may have included too much. Also, I did not include the provision on p 4, line 25 of LRB-3112 authorizing wholesaler sales to employees because it is beyond the scope of the "come to rest" provisions identified in your e-mail instructions. Is this consistent with your intent?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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**

LRB-2081/P2dn
ARG:kjf:pg

August 11, 2005

ATTN: Brian Pleva

Please review the attached draft carefully to ensure that it is consistent with your intent. I was not certain how much of LRB-3112 you wanted to substitute for the text of LRB-2081/P1; I may have included too much. Also, I did not include the provision on page 4, line 25, of LRB-3112 authorizing wholesaler sales to employees because it is beyond the scope of the "come to rest" provisions identified in your e-mail instructions. Is this consistent with your intent?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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

Gary, Aaron

From: Pleva, Brian
Sent: Wednesday, September 14, 2005 9:23 AM
To: Gary, Aaron
Cc: Colvin, Alan
Subject: RE: Draft review: LRB 05-2081/P2 Topic: Beer wholesalers having a warehouse in an adjoining state

That's exactly right, Aaron. Thanks, again!

From: Gary, Aaron
Sent: Wednesday, September 14, 2005 9:21 AM
To: Pleva, Brian; Colvin, Alan
Subject: RE: Draft review: LRB 05-2081/P2 Topic: Beer wholesalers having a warehouse in an adjoining state

Thanks. My understanding is that you want the file transferred from Rep. Fitzgerald to Rep. Pettis, so that Rep. Pettis will now be considered the "requester" on the draft and will have all decision-making authority as to drafting from this point forward. Please correct me if I have misinterpreted the conversation/voice mail with you two.

Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Pleva, Brian
Sent: Wednesday, September 14, 2005 8:55 AM
To: Colvin, Alan
Cc: Gary, Aaron
Subject: FW: Draft review: LRB 05-2081/P2 Topic: Beer wholesalers having a warehouse in an adjoining state

Just left a voicemail w/Aaron. Also, don't know if you have the attached or not.

From: Emery, Lynn
Sent: Thursday, August 11, 2005 11:46 AM
To: Rep.Fitzgerald
Subject: Draft review: LRB 05-2081/P2 Topic: Beer wholesalers having a warehouse in an adjoining state

Following is the PDF version of draft LRB 05-2081/P2 and drafter's note.

09/14/2005

9/14

He from Brian - Rep. Fitzgerald 6-2540

confirming that their office is releasing
bill to Rep. Pettis etc. - LRB-2081

9/13

He from Al - Rep. Pettis

- taking over LRB-2081 from
Rep. Fitzgerald



Emery, Lynn

From: Emery, Lynn
Sent: Wednesday, September 21, 2005 2:57 PM
To: Colvin, Alan
Subject: LRB 05-2081/P2 (attached as requested)

Attachments: 05-2081/P2



05-2081P2.pdf (21
KB)

Lynn Emery
Program Assistant
Legislative Reference Bureau
(608) 266-3561



seen

in 10/11

KMA

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

No change
per Kimber

1 AN ACT to renumber and amend 125.28 (1); to amend 125.04 (3) (e) 1., 125.04
2 (3) (f) 1. and 125.30 (1); and to create 125.28 (1m) of the statutes; relating to:
3 fermented malt beverages wholesalers.

Analysis by the Legislative Reference Bureau

Current law generally prohibits a person from selling alcohol beverages unless the seller possesses a license or permit authorizing the sale. A beer wholesaler's license authorizes the license holder to sell to retailers or wholesalers, from premises within the issuing municipality, beer in original packages that may not be consumed on or about the wholesaler's premises. However, in the case of a foreign corporation or foreign limited liability company whose wholesale premises is located outside of this state, the wholesaler's license can be issued by the governing body of the municipality in which some part of the wholesaler's business is conducted in this state. A beer wholesaler may not receive beer directly shipped from outside this state unless the shipper holds an out-of-state shipper's permit. All beer shipments to a wholesaler in this state, whether shipped to the wholesaler from inside this state or from outside this state, must be unloaded in and distributed from the wholesaler's warehouse in this state.

This bill authorizes a municipality to issue a beer wholesaler's license to any of the following:

1. A wholesaler that maintains a warehouse within the municipality.
2. A wholesaler that does not maintain a warehouse in this state but that is licensed and maintains a warehouse in an adjoining state that allows Wisconsin wholesalers to deliver beer to retailers in that state without warehousing in that

state (nonresident wholesaler) if some part of the wholesaler's business is conducted in the municipality. The wholesaler is not required to be a resident of this state.

The bill generally requires that each licensed beer wholesaler own or lease beer warehouse facilities on the wholesaler's licensed premises or on premises for which the wholesaler holds an alcohol beverage warehouse permit. All beer shipments to the wholesaler must be unloaded in and distributed from these warehouse facilities. However, these requirements do not apply to a nonresident wholesaler. Nonresident wholesalers are also not prohibited from receiving, outside this state, beer shipped by a person not holding a Wisconsin out-of-state shipper's permit.

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

1 **SECTION 1.** 125.04 (3) (e) 1. of the statutes is amended to read:

2 125.04 (3) (e) 1. Each application for a license, other than a manager's or
3 operator's license, shall be sworn to by the applicant. The applicant shall file the
4 application for a license with the municipal clerk of the intended place of sale, except
5 that an applicant for a license under s. 125.28 may file the application with the
6 municipal clerk where any warehouse described in s. 125.28 (1m) (a) is located.

7 **SECTION 2.** 125.04 (3) (f) 1. of the statutes is amended to read:

8 125.04 (3) (f) 1. Except as provided in subds. 2. and 3. and sub. (3) (e) 1., all
9 applications for licenses to sell alcohol beverages shall be filed with the clerk of the
10 municipality in which the premises are located at least 15 days prior to the granting
11 of the license.

12 **SECTION 3.** 125.28 (1) of the statutes is renumbered 125.28 (1) (a) and amended
13 to read:

14 125.28 (1) (a) Every Subject to par. (b), every municipal governing body may
15 issue licenses to wholesalers for that maintain any warehouse specified under sub.
16 (1m) (a) within the municipality authorizing the sale of fermented malt beverages
17 from premises within the municipality. A wholesaler's license authorizes sales of

1 fermented malt beverages only in original packages or containers to retailers or
2 wholesalers, not to be consumed in or about the wholesaler's premises where sold.
3 ~~In the case of a foreign corporation or foreign limited liability company whose~~
4 ~~wholesale premises is located outside of this state,.~~

5 (b) If a wholesaler does not maintain a warehouse specified under sub. (1m) (a)
6 in this state but is licensed and maintains a warehouse in an adjoining state that
7 allows wholesalers licensed in this state to deliver fermented malt beverages to
8 retailers in the adjoining state without warehousing in that state, the wholesaler's
9 license shall be issued by the governing body of the municipality in which some part
10 of the wholesaler's business is conducted in this state. Notwithstanding s. 125.04 (5)
11 (a) 2. and (c) and (6), the municipal governing body may issue the wholesaler's license
12 to a wholesaler described in this paragraph who is a natural person and not a
13 resident of this state or that is a corporation or limited liability company and has not
14 appointed an agent in this state.

15 (c) No additional license or permit is required for the solicitation of orders for
16 sale to or by licensed wholesalers.

17 **SECTION 4.** 125.28 (1m) of the statutes is created to read:

18 125.28 **(1m)** (a) Except as provided in par. (b), any person holding a
19 wholesaler's license under this section shall own or lease warehouse facilities on the
20 premises described in the wholesaler's license, or on any warehouse premises for
21 which the wholesaler also holds a permit issued under s. 125.19, that are capable of
22 warehousing fermented malt beverages. All shipments of fermented malt beverages
23 to the wholesaler, whether shipped to the wholesaler from inside this state or from
24 outside this state, shall be unloaded in and distributed from these warehouse
25 facilities.

1 (b) This subsection does not apply to a wholesaler issued a wholesaler's license
2 under sub. (1) (b).

3 **SECTION 5.** 125.30 (1) of the statutes is amended to read:

4 125.30 (1) The department shall issue out-of-state shippers' permits which
5 authorize the permittee to ship fermented malt beverages only to holders of a
6 wholesaler's license issued under s. 125.28. No person may receive fermented malt
7 beverages in this state which have been directly shipped from outside this state by
8 any person other than the holder of a permit issued under this section. All shipments
9 of fermented malt beverages to a wholesaler of fermented malt beverages in this
10 state, whether shipped to the wholesaler from inside this state or from outside this
11 state, ~~shall be unloaded in and distributed from the wholesaler's warehouse in this~~
12 state are subject to the provisions of s. 125.28 (1m).

13 **SECTION 6. Initial applicability.**

14 (1) This act first applies to fermented malt beverages wholesalers' licenses
15 issued on the effective date of this subsection.

16 (END)

Basford, Sarah

From: Pettis, Mark
Sent: Wednesday, October 12, 2005 8:07 AM
To: LRB.Legal
Subject: Draft review: LRB 05-2081/1 Topic: Beer wholesalers having a warehouse in an adjoining state

It has been requested by <Pettis, Mark> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2081/1 Topic: Beer wholesalers having a warehouse in an adjoining state