

2007 DRAFTING REQUEST

Bill

Received: 03/09/2007

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Michael Sheridan (608) 266-7503

By/Representing: Tom Kelly

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.Sheridan@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Acceptable identification for purchasing alcohol beverages

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>
/?	agary 03/09/2007	csicilia 03/11/2007		_____			
/1			sherritz 03/13/2007	_____	sbasford 03/14/2007	cduerst 03/14/2007	

FE Sent For: none

<END>

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/?	agary	1 g 3/11 07	sh 3/13	sh-pg 3/13			

FE Sent For:

<END>

Gary, Aaron

From: Kelly, Tom
Sent: Friday, March 09, 2007 11:27 AM
To: Gary, Aaron
Subject: RE: Acceptable identification for purchasing alcohol beverages
Attachments: LRB-4849_P1

Hi Aaron.

My boss would like to introduce 2005 LRB-4849/P1. If you could convert it to an introducible form, it would be greatly appreciated.

Thanks.

Tom Kelly
Office of Rep. Sheridan

in 3/9

2194/1
RMNR

D-Note

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

js

SA
SA
KJF

Reger cat.

1 AN ACT *to renumber and amend* 125.085 (1); *to amend* 125.085 (2) and 134.63
2 (3) (c); and *to create* 125.085 (1) (d) and (e) of the statutes; **relating to:**
3 identification for purposes related to the purchase of alcohol beverages.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, a person who has not reached the legal drinking age of 21 years (underage person), and who is not accompanied by his or her parent, guardian, or spouse who has reached the legal drinking age, may not legally purchase, possess, or consume alcohol beverages and may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued. Also, no person (including a licensee or permittee) may procure for, sell, dispense, or give away alcohol beverages to an underage person who is not accompanied by his or her parent, guardian, or spouse who has reached the legal drinking age.

Also under current law, an "official identification card," recognized in this state for purposes related to alcohol beverages, is limited to a valid driver's license issued by the Department of Transportation (DOT) that contains the person's photograph, an identification card issued by DOT (which must contain the person's photograph), or a certain identification card issued through the Department of Administration before January 1, 1990. However, no provision of current law requires a person to present, or a seller of alcohol beverages to examine, an "official identification card" in connection with the purchase and sale of alcohol beverages or with the entry of the person onto a licensed premises. Current law imposes penalties for sales of alcohol beverages to underage persons and for allowing underage persons to be present on

licensed premises and allows alcohol beverages sellers to assert a defense in underage violation prosecutions based upon various factors, including a person's representation supported by documentation that the person was not underage. Current law also specifies that, in place of an "official identification card," "documentary proof of age" may be substituted (but does not define "documentary proof").

This bill expands the definition of "official identification card" to include a valid military identification card that contains the person's photograph and date of birth and a valid U.S. passport. The bill also specifies that an alcohol beverages licensee or permittee may require a person to present an official identification card, documentary proof of age, an operator's license issued by another jurisdiction, or any other form of identification or proof of age acceptable to the licensee or permittee before providing alcohol beverages to the person or allowing the person to enter the premises for which the license or permit has been issued. The bill specifies that a licensee or permittee is not required to accept any form of identification that does not appear to be valid or authentic or appears altered.

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

1 SECTION 1. 125.085 (1) of the statutes is renumbered 125.085 (1) (intro.) and
2 amended to read:

3 125.085 (1) DEFINITION. (intro.) In this section, "official identification card"
4 means ~~a~~ any of the following:

5 (a) A valid operator's license issued under ch. 343 that contains the photograph
6 of the holder, ~~an~~.

7 (b) An identification card issued under s. 343.50 ~~or an~~.

8 (c) An identification card issued under s. 125.08, 1987 stats.

9 SECTION 2. 125.085 (1) (d) and (e) of the statutes are created to read:

10 125.085 (1) (d) A valid military identification card issued to a member of the
11 U.S. armed forces, or forces incorporated as part of the U.S. armed forces, that
12 contains the person's photograph and date of birth.

13 (e) A valid U.S. passport.

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

2194/1
LRB-4849/P1dm
ARG:kjf:jf

March 30, 2006

cjs

I note that SB-40, if enacted in its present form, would eliminate the photograph exception for driver's licenses as part of the state's implementation of the federal REAL ID Act.

~~ATTN: Tom Kelly~~

Please review the attached draft carefully to ensure that it is consistent with your intent.

Under current law, every identification card issued by DOT must include a photograph, so it would be redundant to specify an identification card containing a photograph. (In contrast, there are exceptions to the photograph requirement on driver's licenses.) The draft also assumes that every U.S. passport must contain a photograph.

In the attached draft, I have retained the current provision allowing use of an identification card issued through DOA prior to January 1, 1990. ~~Is this OK?~~ I am not sure if there are any such cards still in circulation.

~~As discussed and as outlined in the analysis,~~ there is no specific requirement under current law that a person present an "official identification card" to purchase alcohol beverages. For example, there is no provision in ch. 125 equivalent to s. 134.63 (3) (c) appearing in the attached bill. I therefore believe this bill has minimal impact on current law with regard to acceptable forms of proof of age. My reading of current law is that an alcohol beverage licensee may accept any proof of age it desires (or even decline to require any customer to present identification) but the licensee does so at its own risk (the risk of prosecution for underage sales if the person turns out to be underage). If the licensee requires the customer to show identification, and if the form of identification may reasonably be relied upon, this may assist in allowing the licensee to assert a defense under s. 125.07 (6) (d) in an underage violation prosecution.

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-2194/1dn
ARG:cjs:sh

March 13, 2007

Under current law, every identification card issued by DOT must include a photograph, so it would be redundant to specify an identification card containing a photograph. (In contrast, there are exceptions to the photograph requirement on driver's licenses.) The draft also assumes that every U.S. passport must contain a photograph. I note that SB-40, if enacted in its present form, would eliminate the photograph exception for driver's licenses as part of the state's implementation of the federal REAL ID Act.

In the attached draft, I have retained the current provision allowing use of an identification card issued through DOA prior to January 1, 1990. I am not sure if there are any such cards still in circulation.

There is no specific requirement under current law that a person present an "official identification card" to purchase alcohol beverages. For example, there is no provision in ch. 125 equivalent to s. 134.63 (3) (c) appearing in the attached bill. I therefore believe this bill has minimal impact on current law with regard to acceptable forms of proof of age. My reading of current law is that an alcohol beverage licensee may accept any proof of age it desires (or even decline to require any customer to present identification) but the licensee does so at its own risk (the risk of prosecution for underage sales if the person turns out to be underage). If the licensee requires the customer to show identification, and if the form of identification may reasonably be relied upon, this may assist in allowing the licensee to assert a defense under s. 125.07 (6) (d) in an underage violation prosecution.

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

Duerst, Christina

From: Kelly, Tom
Sent: Wednesday, March 14, 2007 3:46 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-2194/1 Topic: Acceptable identification for purchasing alcohol beverages

Please Jacket LRB 07-2194/1 for the ASSEMBLY.