

Fiscal Estimate Narratives

DOR 7/11/2007

LRB Number	07-1983/2	Introduction Number	SB-224	Estimate Type	Original
Description creating a brewpub permit authorizing the manufacture and sale at wholesale of fermented malt beverages, authorizing other brewpub interests and operations and limiting certain operations of brewers					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, with certain exceptions, alcohol beverages are sold in Wisconsin through three-tier system whereby a manufacturer may sell only to a wholesaler or rectifier, a wholesaler or rectifier may only sell to a wholesaler or retailer, and a retailer may only sell to a customer.

In addition, a brewer of fermented malt beverages (beer) must hold a permit issued by the Department of Revenue (DOR) to manufacture and possess beer on brewery premises.

Under current law, brewers are granted certain exceptions to the three-tier system. A brewer may obtain a municipal issued wholesaler license authorizing the brewer to sell beer to retailers or wholesalers. With several limitations, a brewer may also sell beer at retail to customers. A brewer may sell beer at retail for off premise consumption if the brewer holds a locally issued Class "A" retail license. A brewer may also sell beer for consumption on the premises if it holds a locally issued Class "B" license. For on premise consumption, however, a brewer may only sell beer at the brewery premise and at one additional property. In addition to these two locations, a brewer may qualify to sell beer at retail to customers in not more than four restaurants, generally, if the brewer manufactures under 4,000 barrels of beer annually, less than 50% of the gross receipts of each restaurant is from the sale of alcohol beverages, each restaurant also sells beer from other brewers, and the brewer's own beer at the restaurant is purchased from an independent wholesaler.

Also under current law, certain brewers are exempt from the general requirement that beer may not be sold, transported, or delivered to a retail licensee unless the beer is first unloaded at and distributed from a licensed beer wholesaler's warehouse. A brewer in providing beer to its own retail premises is also not subject to the general prohibition against a retailer transporting beer between retail premises if the retail premises are owned by the brewer. In addition, beer wholesalers must generally enter into written agreements with brewers that grant to wholesalers distribution rights within exclusive designated sales territories.

The bill creates a new brewpub permit issued by DOR. It also allows a brewpub group to hold up to six brewpub permits.

An applicant is eligible to receive a brewpub permit if:

1. The applicant's brewpub group manufactures no more than 10,000 barrels of beer annually.
2. The entire beer making process occurs on the premises for which the permit is issued.
3. The applicant operates a restaurant on the premises in which the sale of alcohol beverages accounts for less than 60 percent of the restaurant's gross receipts.
4. The applicant holds a locally issued Class "B" license for the restaurant and offers for sale both its own beer and beer manufactured by other brewers.
5. The applicant holds a business tax registration certificate issued by DOR.
6. The applicant does not hold alcohol permits except for those pertaining to the brewpub premises.

The bill allows a brewpub permit holder to:

1. Manufacture beer on the brewpub premises and the permit holder's brewpub group manufactures no more than 10,000 barrels of beer annually.
2. Bottle the beer.
3. Package beer in refillable containers over 24 ounces in size.
4. Possess and store beer on brewpub premises.
5. Transport beer between premises of the brewpub group.
6. Sell beer at wholesale to wholesalers.
7. Sell up to 1,000 barrels of beer annually at wholesale to retailers (in addition to the beer provided by the brewpub to its own retail premises).

8. Sell alcohol beverages at retail on the brewpub premises in accordance with the terms of any locally issued retail Class "B", "Class B", or "Class C" license.

To distribute its beer through licensed beer wholesalers, a brewpub must enter into written agreements with the wholesalers for each brewpub brand providing exclusive designated sales territories to the wholesalers for these brands.

The bill prohibits a brewer from holding a restaurant permit after the bill's effective date. Consequently, those intending to manufacture beer and operate a restaurant after the effective date must obtain a brewpub permit. The bill is effective 30 days after publication. The bill also repeals the authority of a brewer of less than 4,000 barrels annually to process a Class "B" license for up to four restaurants.

Current law includes a global severability provision that applies to all state statutes whereby if any provision of the statutes is found to be invalid, or its application to any specific circumstance is found invalid, the specific invalidity does not impact other statutory provisions or applications of other provisions.

The bill includes a new severability provision specifically for the alcohol regulation provisions contained in chapter 125 of the statutes.

STATE FISCAL EFFECT

There is estimated to be approximately 30 to 40 brewers that would initially qualify for brewpub status. While the bill will require these brewers to obtain brewpub permits, the bill is not expected to have any significant effect on state fee revenues. Under the bill, the state fee for issuing a brewpub permit cannot exceed the fee established by DOR for issuing a brewer permit. Since there currently is no fee for a brewers permit, no new fee revenue is expected to be collected. Fees have previously been imposed on these brewers and, on brewpubs in the future, however, by DOR for the business tax registration certificates that the bill requires brewpubs to hold. The initial business tax registration certificate fee is \$20. The renewal fee for the certificate is \$10.

The Department of Revenue will have additional administrative costs under the bill to create new forms, modify existing forms and modify computer systems. These administrative costs are expected to be absorbed within existing budget authority.

LOCAL FISCAL EFFECT

The bill is not expected to have any significant local fiscal effect.

Long-Range Fiscal Implications