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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2009-10**

(session year)

**Senate**

(Assembly, Senate or Joint)

**Committee on ... Transportation, Tourism,  
Forestry, and Natural Resources (SC-TTFNR)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (June/2012)

## Senate

### Record of Committee Proceedings

#### **Committee on Transportation, Tourism, Forestry, and Natural Resources**

##### **Senate Bill 192**

Relating to: the possession and consumption of alcohol beverages on retail licensed premises in a park in a 1st class city.

By Senator Coggs; cosponsored by Representatives Young, Richards and Zepnick.

May 07, 2009            Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

May 21, 2009            **PUBLIC HEARING HELD**

Present:    (7)    Senators Holperin, Sullivan, Plale, Hansen, Leibham, Kedzie and Grothman.

Absent:    (0)    None.

##### Appearances For

- Spencer Coggs — 6th Senate District
- Leon Young — 16th Assembly District
- Stacie Callies, Milwaukee — Westtown Association of Milwaukee
- Joan Farrell, Milwaukee — The Westtown Association of Milwaukee

##### Appearances Against

- Brian Kaas, Milwaukee — East Town Association
- Kate Benders, Milwaukee — East Town Association

##### Appearances for Information Only

- None.

##### Registrations For

- None.

##### Registrations Against

- Jeff Plale — 7th Senate District

##### Registrations for Information Only

- None.

January 14, 2010            **EXECUTIVE SESSION HELD**

Present: (7) Senators Holperin, Sullivan, Plale, Hansen, Leibham, Kedzie and Grothman.

Absent: (0) None.

Moved by Senator Kedzie, seconded by Senator Sullivan that **Senate Bill 192** be recommended for passage.

Ayes: (7) Senators Holperin, Sullivan, Plale, Hansen, Leibham, Kedzie and Grothman.

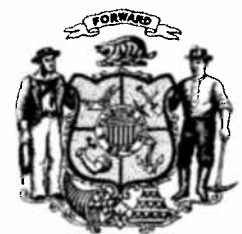
Noes: (0) None.

PASSAGE RECOMMENDED, Ayes 7, Noes 0

Elizabeth Novak  
Committee Clerk



# WISCONSIN STATE LEGISLATURE



**Testimony in Opposition to Assembly Bill 248  
East Town Association ~ Producers of Jazz in the Park  
Public Hearing May 21, 2009, 10 a.m.**

SB 192  
folder

As Ms. Borders mentioned, my name is Brian Kaas and I serve as legal counsel for East Town Association. I am also a partner with the law firm of Foley & Lardner. I fully concur with the public policy concerns raised by our executive director in explaining our opposition to Assembly Bill 248. In addition to these important safety and public policy concerns, I would like to speak briefly on a number of legal concerns we have with this bill.

First, the bill will create significant confusion among licensees, the general public and police officers who are charged with enforcing state alcohol laws. Assembly Bill 248 would grant affected licensees the sole power and discretion to determine whether or not to allow persons to carry in alcohol onto a licensed premises. As a result, it is entirely possible we would see some events held in public parks allowing carry-ins while similar events held in different public parks only blocks away electing to prohibit carry-ins. Not only will this create significant confusion on what policies or laws apply to any given event, it will make it next to impossible for those events that decide to ban carry-ins from effectively enforcing such policy without the force of state law backing up this decision. The need for uniformity in the application and enforcement of liquor laws is imperative and Assembly Bill 248 would erode this uniformity.

Second, the bill raises a number of legal questions. For example, if a licensee adopts a no carry-in policy, which would be entirely voluntary under Assembly Bill 248, would patrons who violate the licensee's policy consequently be deemed to be in violation of state law? Also, what type of liability would flow to event organizers if attendees disregard the no carry-in policy. Will event organizers who adhere to a no carry-in policy be deemed to be in violation of state law if they fail to aggressively enforce its carry-in policy or by allowing illegal activity to occur on its premises. If the event organizer fails to take adequate measures to enforce its voluntary ban on carry-ins, will the event organizer face civil liability if a patron causes injury to himself or others? Conversely, will event organizers who allow carry-ins to their events face civil liability under the new law for the actions of intoxicated patrons who carried in and consumed substantial amounts of alcohol on a licensed premises?

Third, we fail to see any compelling circumstance that would justify modifying Wisconsin's long-standing public policy against carry-ins by creating a special set of rules that apply only to public parks located in the City of Milwaukee. The public policy behind Wisconsin's prohibition against carry-ins is to ensure that licensees are able to effectively control the sale and consumption of alcohol on their premises through monitored alcohol sales. It is unclear why these policies and law, which will continue apply to every other licensed premises in the State of Wisconsin, should no longer apply to events held in public parks in the City of Milwaukee, many of which are geared in part toward families.

Finally, we do not believe the bill as drafted would protect individuals who carry in alcohol to these downtown events. Instead, it appears the bill will only impact licensees. Section

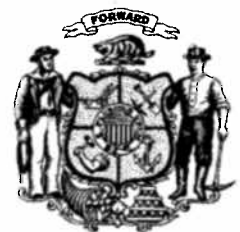
125.32(6)(a) contains two general prohibitions. First, it prohibits persons from possessing alcohol (on any premises covered by a liquor license) that is not authorized for sale on the premises. This is the provision that applies to patrons. Second, the statute prohibits persons from permitting any alcohol not authorized for sale on the premises. This latter prohibition pertains to licensees and prohibits licensees from allowing carry-ins on their premises.

The proposed bill as drafted eliminates only the second of these two prohibitions. Namely, the bill would no longer make it unlawful for affected licensees to allow persons to possess and consume alcohol on the licensed premises. The bill does not, however, waive the general prohibition applicable to persons who possess alcohol on a licensed premises. Technically, these individuals would still be in violation of state law, regardless of the licensee's policy on carry-ins.

In closing, we respectfully ask that this Committee take these issues into consideration and refrain from advancing Assembly Bill 248 later today. We also ask that this Committee fully consider the unintended consequences of this bill and recognize the legal and practical uncertainties it will create for affected licensees. Most importantly, we ask each Committee member to weigh the public policy and safety concerns we have outlined today against the need for a narrow carve-out to Wisconsin's longstanding carry-in laws.



# WISCONSIN STATE LEGISLATURE



**Testimony in Opposition to Assembly Bill 248/Senate Bill 192**  
**East Town Association ~ Producers of Jazz in the Park**  
**Public Hearing May 21, 2009**

My name is Kate Borders and I serve as the Executive Director of East Town Association. I am joined by Brian Kaas, a partner with the law firm of Foley & Lardner who serves as a Board member and legal counsel to East Town Association.

On behalf of the East Town Association, we are here today to express our opposition to Assembly Bill 248 and Senate Bill 192. The East Town Association is a non-profit organization established in the early 1960's with the goal of fostering business and development in downtown Milwaukee. Our current membership is comprised of over 200 downtown Milwaukee businesses and 100 residents.

Our organization produces two large scale events, Jazz in the Park and Bastille Days. Both of these events are held in Cathedral Square Park, which is a county park located in the heart of downtown Milwaukee. This park would fall within the scope of these bills. We believe Assembly Bill 248/Senate Bill 192 would have negative long term consequences on Jazz in the Park, which is a Thursday evening concert series free to the public, entering its 19<sup>th</sup> season in 2009. The positive outcomes of this event over the years have been substantial. New residents have cited this event as a factor in their decision to relocate to the downtown area, businesses cite this event as integral in their recruiting efforts, major corporations utilize this event for client appreciation and entertaining, and local businesses report an average 30% increase in sales on Thursday evenings during the Jazz in the Park season. The economic impact on the downtown businesses and the city tax base is substantial.

This event has also grown significantly in recent years. According to square footage estimates, it is not unusual for our events to draw crowds in excess of 10,000 people within in an area the size of one square city block. While we are fortunate to enjoy such successful events, we have become increasingly aware of the vast amounts of alcohol being carried in and consumed by a small but growing segment of our patrons, especially those under the legal drinking age.

Coinciding with this increase in alcohol consumption is a growing concern by many of our members and patrons over the number of intoxicated individuals at Jazz in the Park. These individuals have replaced the casual bottle of wine with half barrels and bottles of hard alcohol. After several hours of heavy drinking, these individuals often become disruptive and cast a negative light on an otherwise peaceful event. Problems associated with intoxication include public urination, increased noise volume, excessive littering, disorderly conduct, and a rise in petty theft and vandalism. To be clear, these individuals represent a small segment of our patrons but are becoming a growing burden on the neighborhood and our event. They also raise potentially significant liability concerns, particularly the under-aged patrons.

Last June, our organization and others in the area received a letter from the City of Milwaukee advising that it was illegal to allow individuals to carry in alcohol to these downtown events,



citing State Statute 125.32 6a. Soon after, our Board began to carefully study options for producing an event that complied with state law and ensured the continued safety of our patrons. Our Board concluded that the best way to ensure the long-term safety and viability of our events was to control the type and volume of alcohol consumed by our guests. As a result, our Board of Directors voted unanimously this spring to prohibit the carry-in of alcohol at our events in accordance with state law.

The safety of our patrons and the well-being of the neighborhood are our top priorities. Given the size of our events, we feel both could be compromised if patrons are allowed to continue bringing their own alcohol to these events. Fortunately, our events have gone on for years without any major incidents. Our goal is to maintain that record but it is becoming more difficult with our growing attendance and the substantial consumption of alcohol by a small but growing number of attendees. Without a method of controlling alcohol consumption through monitored sales, we believe we will start seeing a rise in the number of alcohol related issues.

We believe Assembly Bill 248/Senate Bill 192 would make it extremely difficult, if not impossible, to enforce a no carry-in policy, especially when our premises consists of a public park with no fences or boundaries. At first glance, this bill may appear to benefit organizations such as East Town Association. However, we believe that without the weight of a state statute supporting our efforts to control alcohol consumption, it will very difficult to curb under-age drinking or limit excessive alcohol consumption by intoxicated individuals. We are also concerned about the potential exposure to our organization from a liability standpoint if the decision to allow carry-ins rests in the hands of the licensee.

In closing, we recognize there are many dedicated patrons at our events who enjoy the current carry-in policy and consume alcohol responsibly. We are hopeful we will not lose these patrons by implementing a no carry-in policy. However, we are also confident that change is necessary to ensure we continue to provide a controlled and safe environment for our patrons. We believe that Section 125.32 as it is currently written is in the best interests of the public and gives us the ability to make these necessary modifications to Jazz in the Park to ensure its longevity and continued success. For these reasons, we respectfully oppose adoption of Assembly Bill 248/Senate Bill 192.





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Larry Stephens  
We Energies

Debra Usinger  
Usinger's Famous Sausage

Stacie Callies  
Executive Director

[www.parkmilwaukee.com](http://www.parkmilwaukee.com)

May 21, 2009

### Testimony in Support of AB 248 and SB 192

The Westown Association of Milwaukee, Inc. represents one of the oldest Business Improvement Districts (BID) in the City of Milwaukee. Westown serves as a liaison between its members, businesses, public officials and others concerned with the economic and cultural development in downtown Milwaukee. Our borders are generally defined as the western portion of downtown, from the Milwaukee River west to Marquette University campus.

Our organization is funded by a combination of public and private dollars which come from the following sources:

- Business Improvement District No. 5 – Assessment dollars collected from commercial properties within the BID boundaries.
- Corporate Sponsorships
- Membership Dues
- Program and Event Revenue

Our membership is 100 strong and is comprised of business owners, property owners, other non-profit organizations and residents. Our sponsors, upon which we heavily rely, include:

- Assurant Health, Hilton City Center, Hyatt Regency Hotel, Marquette University, Miller/Coors, M&I Bank, WE Energies, Midwest Airlines and Time Warner Cable, to name just a few

As a champion of economic and social development in downtown Milwaukee, Westown is responsible for providing growth initiatives, public/private partnerships and special events like the following; all that improve the quality of life and vitality of our district:

- **ParkMilwaukee.Com** – Web site that provides live parking information throughout all of downtown.
- **Design Guidelines** – Created as a guideline for developers to encourage a higher standard of design in the built environment and used by the Department of City Development.
- **St. Patrick's' Day Parade** – State's largest St. Patrick's celebration.
- **River Flicks** – Free, family-friendly outdoor movies on the Milwaukee River.

- **Farmers Market** – Downtown’s oldest farmers market which expanded in 2008 to include an indoor winter market located in The Shops of Grand Avenue.

And, **River Rhythms**, which is one of our flag ship events. This popular free, summer concert series has been enjoyed by residents and employees for the past 13 years. River Rhythms hosts a free concert every Wednesday night in Pere Marquette Park from June – August. This event was founded on a “picnic-like” premise where patrons could spread out a blanket, bring their lawn chairs and coolers and listen to music from 6:30 – 9:00 p.m.

It is important to note some very important differences between our event, River Rhythms, and another popular concert series known as Jazz in the Park which is sponsored by the East Town Association.

- River Rhythms is a much smaller event and provides a wide variety of music that attracts a loyal following of mature music lovers. Our music selections range from Country to Blues and from Swing to Pop. Our crowds are much smaller in size and generally range from 1,000 – 1,500 patrons each night.
- River Rhythms is held in Pere Marquette Park which is a much larger venue. This park provides a scenic setting along the west bank of the Milwaukee River and is a perfect venue for music. It contains a permanent stage/band stand area and gradual sloped grass area that provides an “amphitheater like” seating area. It has the capacity to accommodate crowds of triple our normal size
- Pere Marquette Park is not surrounded by city streets that contain numerous bars and restaurants, which may contribute to the excessive alcohol consumption issues experienced at Jazz in the Park. Our park abuts the Milwaukee River, the Milwaukee County Historical Society and the Milwaukee Journal Sentinel building.
- We do not have crowds that overflow onto the streets and we do not close the surrounding streets as East Town does for Jazz in the Park.

As mentioned above, the ability to gather at River Rhythms with friends and colleagues in a picnic-like manner has become a strong part of the event’s character. We have worked tirelessly for 13 years and invested incredible resources to establish this as a successful event. During this time, we are not aware of a single incident involving underage drinking or an alcohol related incident requiring police intervention.

While Westown does sell beer and wine at River Rhythms (under its Class B liquor license), and local vendors sell a variety of food selections, we feel it is critical to maintain the character of this event and permit our loyal patrons to picnic in the park with their own food and beverages, including alcoholic beverages.

Our Board has carefully considered the effects that a change in the carry-in policy might have on our event and has concluded that the increased costs associated

with staffing, security enforcement and additional beverage purchases for re-sale will not be offset by increased revenue sources, such as increased beverage sales. Our budget and cost structure is much different from the East Town Association and cannot easily accommodate such risk.

We are extremely concerned that having to change our carry-in policy will result in decreased attendance, which unlike Jazz in the Park, is something that will harm, not enhance, our event. With today's economic climate, individuals are extremely cautious about spending entertainment dollars. Now is certainly not the time to change the totally free nature of this event.

Because attendance drives sponsorship, we are extremely concerned about the effect a change in policy may have on Sponsorship dollars, which are increasingly difficult to secure. In 2009 alone, Westown has experienced a drop of approximately 25% in Sponsorships. Westown would not be able to host these events without corporate sponsorships. Sponsors realize a greater return on their investment when attendance is thriving and they are recognized for supporting a totally free event for the general public.

Moreover, it is important to look at the bigger picture. River Rhythms was created in part to support economic activity and vitality of downtown Milwaukee. Downtown businesses benefit from the increased activity. Property values are strengthened. Tax dollars and the tax base are increased. And, revenue from this event supports our other programs that further strengthen the downtown district.

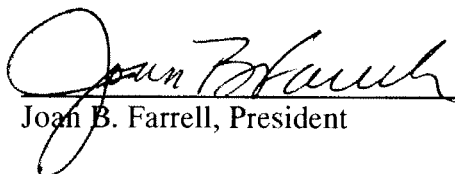
Additionally, we see our organization as providing free public programming for Milwaukee County Parks. Without Westown's efforts, this programming would not be available to the public.

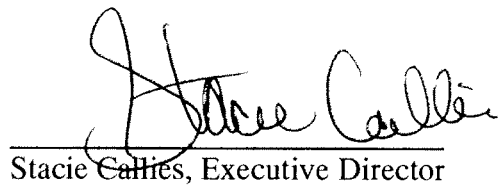
The proposed legislation is not far reaching, but is very limited in scope. Furthermore, it does not require East Town (or similar organizations) to permit carry-ins at special events. Rather, it allows the host organization to determine what is best for its particular event and individual circumstances. Passing this Amendment is really a win-win proposition for both Westown and East Town. Moreover, it requires individual organizations to take responsibility for the nature and character of its events. Westown holds a Class B liquor license and is heavily regulated under those licensing requirements. We take this responsibility seriously and will do nothing to jeopardize our ability to secure this license in the future.

This Amendment will allow Westown Association to continue producing River Rhythms which is not only essential to our organization but more importantly, to the vitality of downtown Milwaukee.

Respectfully,

The Westown Association of Milwaukee, Inc.

  
Joan B. Farrell, President

  
Stacie Callies, Executive Director



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COPY  
w/notes

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*i.e. starting to enforce current law*



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*i.e. try to enforce current law*

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Because attendance drives sponsorship, we are extremely concerned about the effect a change in policy may have on Sponsorship dollars, which are increasingly difficult to secure. In 2009 alone, Westown has experienced a drop of approximately 25% in Sponsorships. Westown would not be able to host these events without corporate sponsorships. Sponsors realize a greater return on their investment when attendance is thriving and they are recognized for supporting a totally free event for the general public.

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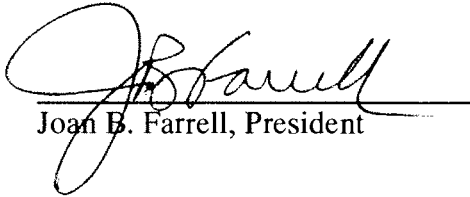
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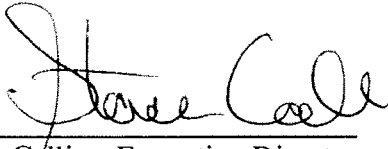
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Respectfully,

The Westown Association of Milwaukee, Inc.



Joan B. Farrell, President



Stacie Callies, Executive Director

- 11/19 Stacie says 2009 was the first year that they had to "try to" enforce the law. They did that by signage and announcements and flyers. All this seemed not to make any difference to attendees. Police not interested in enforcing. Beverage sales were stable ... meaning people are still carrying in.