



2011 SENATE BILL 395

January 20, 2012 – Introduced by Senators ELLIS, LAZICH, HARS DORF, WANGGAARD, KEDZIE and GROTHMAN, cosponsored by Representatives KAUFERT, KOOYENGA, BROOKS, PASCH, KESTELL, WYNN, THIESFELDT, POCAN, PRIDEMORE, SPANBAUER, C. TAYLOR, VAN ROY, HONADEL and BERNARD SCHABER. Referred to Committee on Energy, Biotechnology, and Consumer Protection.

1 **AN ACT** *to renumber and amend* 125.06 (3); *to amend* 125.06 (3) (title); *to*
2 *repeal and recreate* 139.04 (1); and *to create* 125.02 (6m), 125.06 (3) (a) 2.
3 and 3. and (b) and 125.06 (3m) of the statutes; **relating to:** homemade wine and
4 fermented malt beverages.

Analysis by the Legislative Reference Bureau

Under current law, a person is not required to hold a license or permit to make wine or fermented malt beverages (beer) at his or her home, farm, or place of residence if the wine or beer is to be consumed by the person or his or her family and guests and if the person receives no compensation. Also under current law, a person is not required to pay an occupational tax on wine or beer made at home solely for consumption at home by the person's family and guests, without compensation.

This bill significantly modifies the standards for the production and use of homemade wine and beer for which a license or permit is not required and for which occupational taxes are not owed. Under the bill, "homemade" wine and beer is wine and beer made by a person's own efforts and not for a commercial purpose, and is not limited to wine or beer made in the person's home. Under the bill, no license or permit is required for the making of homemade wine or beer, and the possession, transportation, or storage of homemade wine or beer, if all of the following apply: 1) the person who makes the wine or beer receives no compensation; 2) the wine or beer is not sold or offered for sale; and 3) the total quantity of wine or beer made by the person and any other person living in the same household does not exceed 100 gallons or 200 gallons per calendar year, depending on how many persons of legal drinking

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age live in the household. If wine or beer is made in compliance with these requirements, this homemade wine or beer may also be used, without any license or permit, for purposes of exhibition, demonstration, judging, tasting, or sampling or as part of a contest or competition (collectively “home maker’s event”).

The bill also allows a person, including an alcohol beverage retailer or other permit holder, to conduct, sponsor, or host, at a public or private place under the control of the person, a home maker’s event if the person does not sell, or acquire any ownership interest in, the homemade wine or beer.

Under the bill, homemade wine or beer made in compliance with the requirements identified as items 1 to 3 above is exempt from the occupational tax.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 125.02 (6m) of the statutes is created to read:

2 125.02 **(6m)** “Homemade,” with respect to the making of wine and fermented
3 malt beverages, means wine and fermented malt beverages made by a person’s own
4 efforts and not for a commercial purpose, but does not require that the wine or
5 fermented malt beverages be made in the person’s home.

6 **SECTION 2.** 125.06 (3) (title) of the statutes is amended to read:

7 125.06 **(3)** (title) ~~HOMEMADE~~ THE MAKING OF HOMEMADE WINE OR FERMENTED MALT
8 BEVERAGES.

9 **SECTION 3.** 125.06 (3) of the statutes is renumbered 125.06 (3) (a) (intro.) and
10 amended to read:

11 125.06 **(3)** (a) (intro.) ~~The manufacture of~~ making of homemade wine or
12 fermented malt beverages ~~of any alcoholic content, and the possession,~~
13 transportation, or storage of homemade wine or fermented malt beverages, by any
14 person ~~at his or her home, farm or place of residence if the wine or fermented malt~~

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1 ~~beverages is to be consumed by that person or his or her family and guests, and if the~~
2 if all of the following apply:

3 1. The person manufacturing who makes the wine or fermented malt beverages
4 receives no compensation.

5 **SECTION 4.** 125.06 (3) (a) 2. and 3. and (b) of the statutes are created to read:

6 125.06 **(3)** (a) 2. The wine or fermented malt beverages are not sold or offered
7 for sale.

8 3. The total quantity of wine or fermented malt beverages made, in a calendar
9 year, by the person and any other person living in the same household does not exceed
10 100 gallons if the household has only one person of legal drinking age or 200 gallons
11 if the household has 2 or more persons of legal drinking age.

12 (b) A person who makes, possesses, transports, or stores homemade wine or
13 fermented malt beverages in compliance with the limitations specified in par. (a) is
14 not a brewer or a manufacturer of wine for purposes of this chapter.

15 **SECTION 5.** 125.06 (3m) of the statutes is created to read:

16 125.06 **(3m)** THE USE OF HOMEMADE WINE OR FERMENTED MALT BEVERAGES FOR
17 COMPETITIONS OR EXHIBITIONS OR SIMILAR PURPOSES. (a) The use of homemade wine or
18 fermented malt beverages made in compliance with the limitations specified in sub.
19 (3) (a) for purposes of exhibition, demonstration, judging, tasting, or sampling or as
20 part of a contest or competition. Homemade wine or fermented malt beverages used
21 for purposes described in this paragraph, including the submission or consumption
22 of such wine or fermented malt beverages, are not considered sold or offered for sale
23 under sub. (3) (a) 2. and any prize awarded at a contest or competition or as a result
24 of an exhibition, demonstration, judging, tasting, or sampling is not considered
25 compensation under sub. (3) (a) 1.

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1 (b) Notwithstanding ss. 125.09 (1), 125.14 (5), 125.315, 125.32 (6) (a), 125.34
2 (2) and (5), and 125.67, a person, including a licensee or permittee under this chapter,
3 may conduct, sponsor, or host, at a public or private place under the control of the
4 person, a contest, competition, or other event for the exhibition, demonstration,
5 judging, tasting, or sampling of homemade wine or fermented malt beverages made
6 in compliance with the limitations specified in sub. (3) (a) if the person does not sell
7 the wine or fermented malt beverages and, unless the person is the maker of the wine
8 or fermented malt beverages, does not acquire any ownership interest in the wine
9 or fermented malt beverages. If the contest, competition, or other event is held on
10 premises for which a license or permit has been issued under this chapter, the
11 licensee or permittee may allow the homemade wine or fermented malt beverages to
12 be stored on the premises if the homemade wine or fermented malt beverages are
13 clearly identified and kept separate from any alcohol beverages owned by the
14 licensee or permittee. If the contest, competition, or other event is held on premises
15 for which a license or permit has been issued under this chapter, the provisions of ss.
16 125.32 (7) and 125.68 (9) (e) do not apply with respect to the homemade wine or
17 fermented malt beverages.

18 **SECTION 6.** 139.04 (1) of the statutes is repealed and recreated to read:

19 139.04 (1) Wine, as defined in s. 125.02 (22), or fermented malt beverages made
20 in compliance with the limitations specified in s. 125.06 (3) (a).

21 **SECTION 7. Effective date.**

22 (1) This act takes effect on the first day of the 3rd month beginning after
23 publication.

24 (END)