

2019 DRAFTING REQUEST

Bill

For: **Legislative Council -study cmnte** Drafter: **agary**
 By: **Melissa Schmidt** Secondary Drafters:
 Date: **11/2/2018** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **melissa.schmidt@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**
eric.mueller@legis.wisconsin.gov

for Assembly
Per

Pre Topic:

No specific pre topic given

Topic:

Requiring designation of agent for service of process

Instructions:

Require out-of-state shipper permittees and direct wine shipper permittees to designate agent for service of process to the extent they don't have to already; use s. 995.12 (3) as a model for agent provisions

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 11/8/2018				
/P1	agary 11/15/2018	aernstr 11/15/2018	dwalker 11/9/2018		
/P2	agary 11/15/2018	aernstr 11/15/2018	lparisi 11/15/2018		
/P3	agary	wjackson	lparisi		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	11/16/2018	11/16/2018	11/15/2018		
/1			lparisi 11/16/2018	mbarman 3/7/2019	

FE Sent For:

Not Needed

<END>



State of Wisconsin
2019 - 2020 LEGISLATURE

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by
for 11/9

LRB-0718/P1
ARG...

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in
11/8

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note

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gen

1 AN ACT ...; relating to: enforcement of alcohol beverage laws against
2 out-of-state alcohol beverage shippers and direct wine shippers.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Alcohol Beverages Enforcement.

****NOTE: I will insert the rest of the Pref Note when the draft is finalized and the Pref Note is available.

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

4 125.30 (2) The application for an out-of-state shipper's permit and the permit
5 shall be on forms prescribed by the department which shall contain provisions
6 determined by the department as necessary to effectuate the purposes of ss. 139.01
7 to 139.25 and shall include a provision that the permittee agrees to all of the
8 following:

1 (a) ~~To comply~~ Comply with s. 139.05 relating to filing a bond, filing returns,
2 paying taxes, and record keeping;

3 (b) ~~To permit~~ Permit inspections and examinations of the permittee's premises
4 and records by the department and its duly authorized employees, as authorized
5 under s. 139.08 (4); ~~and~~.

6 (c) ~~To pay~~ Pay the expenses reasonably attributable to such inspections and
7 examinations made within the United States.

History: 1981 c. 79; 1989 a. 253; 1993 a. 112, 259, 491; 1995 a. 27; 1997 a. 166; 2005 a. 103, 115; 2011 a. 32.

8 ✕ **SECTION 2.** 125.30 (2) (d) of the statutes is created to read:

9 125.30 (2) (d) Accept service of process and consent to jurisdiction in any
10 proceeding in this state to enforce the provisions of this chapter or ch. 139.

11 ✕ **SECTION 3.** 125.30 (3) of the statutes is renumbered 125.30 (3) (a).

12 **SECTION 4.** 125.30 (3) (b) of the statutes is created to read:

13 125.30 (3) (b) 1. A permittee under this section shall appoint and continually
14 engage the services of an agent in this state to act as agent for the service of process
15 on whom all processes, and any action or proceeding against it concerning or arising
16 out of the enforcement of any provision of this chapter or ch. 139, may be served in
17 any manner authorized by law. That service shall constitute legal and valid service
18 of process on the permittee. The permittee shall provide to the department, in the
19 form and manner prescribed by the department, the name, address, phone number,
20 and proof of the appointment and availability of the agent.

21 2. The permittee shall provide notice to the department 30 calendar days before
22 termination of the authority of an agent under subd. 1. and shall provide proof to the
23 satisfaction of the department of the appointment of a new agent no less than 5
24 calendar days before the termination of an existing agent appointment. In the event

1 an agent terminates an agency appointment, the permittee shall notify the
2 department of that termination within 5 calendar days and shall include proof to the
3 satisfaction of the department of the appointment of a new agent.

4 3. If a permittee fails to maintain an agent in this state after a permit is issued
5 under this section, the permittee is considered to have appointed the department of
6 financial institutions as the permittee's agent and the permittee may be proceeded
7 against in courts of this state by service of process upon the department of financial
8 institutions.

9 ~~α~~ SECTION 5. 125.535 (3) (b) 3. of the statutes is created to read:

10 125.535 (3) (b) 3. The winery satisfies all requirements under par. (d).

11 ~~↓~~ SECTION 6. 125.535 (3) (c) of the statutes is amended to read:

12 125.535 (3) (c) Notwithstanding s. 125.04 (5) (a), natural persons obtaining
13 direct wine shippers' permits are not required to be residents of this state.
14 Notwithstanding s. 125.04 (5) (a) 5., a person is not required to complete a
15 responsible beverage server training course to be eligible for a permit under this
16 section. ~~Corporations and limited liability companies obtaining direct wine shippers'~~
17 ~~permits are subject to s. 125.04 (6) and any other person, including any natural~~
18 ~~person or cooperative, obtaining a direct wine shipper's permit shall appoint an~~
19 ~~agent, and be subject to all provisions of s. 125.04 (6), in the same manner applicable~~
20 ~~to corporations and limited liability companies~~ Notwithstanding s. 125.04 (5) (a) 2.
21 and (c), an agent appointed under s. 125.04 (6) by a corporation or limited liability
22 company obtaining a direct wine shipper's permit is not required to be a resident of
23 this state.

History: 2007 a. 85.

24

SECTION 7. 125.535 (3) (d) ^{and (e)} of the statutes ^{are} created to read:

1 125.535 (3) (d) 1. Unless the permittee or agent of the permittee appointed
2 under s. 125.04 (6) is a resident of this state, or unless the permittee maintains a
3 registered agent in this state under s. 180.0501, 180.1507, 183.0105, or 183.1007, a
4 permittee under this section shall appoint and continually engage the services of an
5 agent in this state to act as agent for the service of process on whom all processes,
6 and any action or proceeding against it concerning or arising out of the enforcement
7 of any provision of this chapter or ch. 139, may be served in any manner authorized
8 by law. That service shall constitute legal and valid service of process on the
9 permittee. The permittee shall provide to the department, in the form and manner
10 prescribed by the department, the name, address, phone number, and proof of the
11 appointment and availability of the agent.

12 2. The permittee shall provide notice to the department 30 calendar days before
13 termination of the authority of an agent under subd. 1. and shall provide proof to the
14 satisfaction of the department of the appointment of a new agent no less than 5
15 calendar days before the termination of an existing agent appointment. In the event
16 an agent terminates an agency appointment, the permittee shall notify the
17 department of that termination within 5 calendar days and shall include proof to the
18 satisfaction of the department of the appointment of a new agent.

19 3. If a permittee fails to maintain an agent in this state after a permit is issued
20 under this section, the permittee is considered to have appointed the department of
21 financial institutions as the permittee's agent and the permittee may be proceeded
22 against in courts of this state by service of process upon the department of financial
23 institutions.

24 (e) The application for a permit under this section shall include a provision that
25 the permittee agrees to all of the following:

1 1. File reports, provide records, and allow inspections and examinations to the
2 extent provided in ch. 139.

3 2. Pay the expenses reasonably attributable to inspections and examinations
4 made by the department at any premises of the permittee located outside this state.

5 3. Accept service of process and consent to jurisdiction in any proceeding in this
6 state to enforce the provisions of this chapter or ch. 139.

7 *SECTION 8. 125.58 (2) of the statutes is renumbered 125.58 (2) (a).

8 SECTION 9. 125.58 (2) (b) ^{and (c)} of the statutes ^{are} created to read:

9 125.58 (2) (b) 1. Unless the permittee or agent of the permittee appointed under
10 s. 125.04 (6) is a resident of this state, or unless the permittee maintains a registered
11 agent in this state under s. 180.0501, 180.1507, 183.0105, or 183.1007, a permittee
12 under this section shall appoint and continually engage the services of an agent in
13 this state to act as agent for the service of process on whom all processes, and any
14 action or proceeding against it concerning or arising out of the enforcement of any
15 provision of this chapter or ch. 139, may be served in any manner authorized by law.
16 That service shall constitute legal and valid service of process on the permittee. The
17 permittee shall provide to the department, in the form and manner prescribed by the
18 department, the name, address, phone number, and proof of the appointment and
19 availability of the agent.

20 2. The permittee shall provide notice to the department 30 calendar days before
21 termination of the authority of an agent under subd. 1. and shall provide proof to the
22 satisfaction of the department of the appointment of a new agent no less than 5
23 calendar days before the termination of an existing agent appointment. In the event
24 an agent terminates an agency appointment, the permittee shall notify the

SECTION 9

1 department of that termination within 5 calendar days and shall include proof to the
2 satisfaction of the department of the appointment of a new agent.

3 3. If a permittee fails to maintain an agent in this state after a permit is issued
4 under this section, the permittee is considered to have appointed the department of
5 financial institutions as the permittee's agent and the permittee may be proceeded
6 against in courts of this state by service of process upon the department of financial
7 institutions.

8 (c) The application for a permit under this section shall include a provision that
9 the permittee agrees to all of the following:

10 1. File reports, provide records, and allow inspections and examinations to the
11 extent provided in ch. 139.

12 2. Pay the expenses reasonably attributable to inspections and examinations
13 made by the department at the premises of the permittee located outside this state.

14 3. Accept service of process and consent to jurisdiction in any proceeding in this
15 state to enforce the provisions of this chapter or ch. 139.

16 **SECTION 10. Initial applicability.**

17 (1) This act first applies with respect to permits issued after the effective date
18 of this subsection.

19 **SECTION 11. Effective date.**

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

22 (END)



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

LRB-0718/P1dn

ARG:...

ahc

Date

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

The provisions in this draft are similar to those appearing in LRB-0717/P1, and the drafter's note to LRB-0717/P1 provides some background for these provisions.

Some courts have found that a state into which alcohol beverages have been illegally shipped (by a business that does not hold a license or permit issued by the state) lacks jurisdiction to enforce the state's laws against the out-of-state shipper and that the state must rely on the illegal shipper's home state to stop the illegal shipping. For example, in Mississippi, a state trial court dismissed an action brought by the state's Attorney General against out-of-state wine sellers that were illegally shipping wine directly to state residents. Do you want to include any provision in this draft that allows DOR to ~~take action against~~ a Wisconsin license or permit if the Wisconsin licensee or permittee is illegally shipping alcohol into another state in violation of that state's law?

Please let me know if you would like any changes made to the attached draft or if you have any questions.

Aaron R. Gary ✓
Senior Legislative Attorney
(608) 504-5850
aaron.gary@legis.wisconsin.gov

suspend or
revoke

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

LRB-0718/P1dn
ARG:ahe

November 9, 2018

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

The provisions in this draft are similar to those appearing in LRB-0717/P1, and the drafter's note to LRB-0717/P1 provides some background for these provisions.

Some courts have found that a state into which alcohol beverages have been illegally shipped (by a business that does not hold a license or permit issued by the state) lacks jurisdiction to enforce the state's laws against the out-of-state shipper and that the state must rely on the illegal shipper's home state to stop the illegal shipping. For example, in Mississippi, a state trial court dismissed an action brought by the state's attorney general against out-of-state wine sellers that were illegally shipping wine directly to state residents. Do you want to include any provision in this draft that allows DOR to suspend or revoke a Wisconsin license or permit if the Wisconsin licensee or permittee is illegally shipping alcohol into another state in violation of that state's law?

Please let me know if you would like any changes made to the attached draft or if you have any questions.

Aaron R. Gary
Senior Legislative Attorney
(608) 504-5850
aaron.gary@legis.wisconsin.gov

Gary, Aaron

From: Schmidt, Melissa
Sent: Wednesday, November 14, 2018 11:27 AM
To: Gary, Aaron
Cc: Queensland, Michael
Subject: FW: Draft review: LRB -0718/P1
Attachments: 19-0718/P1.pdf; DraftersNote1.pdf

Importance: High

Aaron,

Thank you for this draft and thoughtful drafter's note. In response to the question in the drafter's note, **YES**, the Department of Revenue would like to include a provision that would allow DOR to suspend or revoke a Wisconsin license or permit if the Wisconsin licensee or permittee is illegally shipping alcohol into another state in violation of that state's law. Would you please add this provision to the bill draft?

I am also working on the pref note for this draft and am hoping to get this to you tomorrow. Is this ok?

Melissa Schmidt

Senior Staff Attorney
Wisconsin Legislative Council
Phone: (608) 504-5727
<http://lc.legis.wisconsin.gov/>

From: LRB.Legal
Sent: Friday, November 09, 2018 9:41 AM
To: Schmidt, Melissa <Melissa.Schmidt@legis.wisconsin.gov>
Subject: Draft review: LRB -0718/P1

Following is the PDF version of draft LRB -0718/P1 and drafter's note.

Background

Current law regulating alcohol beverages is generally found in chs. 125 and 139, stats. The former sets forth the law regarding the authority and restrictions applicable to the manufacture, wholesale (distribution) and retail sales of alcohol beverages. The latter sets forth the law regarding the occupational (excise) taxation of alcohol beverages.

There are 3 types of alcohol beverages permits that the Department of Revenue (DOR) may issue to a person, corporation, or limited liability company located outside of the state. These permits are: (1) the out-of-state fermented malt beverages (beer) shippers' permit; (2) the out-of-state intoxicating liquor (distilled spirits and wine, "liquor") shippers' permit; and (3) the direct wine shippers' permit. Subject to various restrictions, the out-of-state shippers' permit authorizes a person located outside of the state to ship beer to a person holding a beer wholesalers' permit. The out-of-state liquor shippers' permit, subject to various restrictions, authorizes a person located outside of the state to ship liquor to a person holding a liquor wholesaler permit, manufacturer's or rectifier's permit, or a winery permit. The direct wine shippers' permit, also subject to various restrictions, authorizes the manufacturer of wine located either inside or outside of the state to ship wine directly to individuals in the state who are of the legal drinking age, acknowledge receipt of the wine shipped, and are not intoxicated at the time of delivery.

The Bill

The bill requires out-of-state beer shippers' permittees, out-of-state liquor shippers' permittees, and direct wine shippers' permittees located outside of the state to consent to jurisdiction in this state for any proceeding in this state to enforce alcohol beverages laws found in chs. 125 and 139, stats.

Out-of-state beer shippers' permittees, out-of-state liquor shippers' permittees, and direct wine shippers' permittees located outside of the state must also accept service of process in this state for any proceeding in this state to enforce alcohol beverages laws found in chs. 125 and 139, stats. In order to accept service of process in this state, these permittees must do all of the following:

- Appoint and continually engage the services of an agent in this state to act as agent for the service of process on whom all processes, and any action or proceeding against it concerning or arising out of the enforcement of any provision of chs. 125 and 139, stats., may be served in any manner authorized by law. That service constitutes legal and valid service of process on the permittee.
- Provide to DOR, in the form and manner prescribed by DOR, the name, address, phone number, and proof of the appointment and availability of the agent.
- Provide notice to DOR 30 calendar days before termination of the authority of an agent appointed to accept service of process described above, and proof to DOR's satisfaction

of the appointment of a new agent no less than 5 calendar days before the termination of an existing agent appointment.

- In the event an agent terminates an agency appointment, notify DOR of that termination within 5 calendar days and include proof to DOR's satisfaction of the appointment of a new agent.

Under the bill, if an out-of-state beer shippers' permittee, out-of-state liquor shippers' permittee, or direct wine shippers' permittee located out-of-state fails to maintain an agent in this state after a permit is issued, the permittee is considered to have appointed the Department of Financial Institutions (DFI) as the permittee's agent and the permittee may be proceeded against in courts of this state by service of process upon DFI. The bill also codifies in ch. 125, stats., requirements regarding the payment of occupational taxes, filing reports and tax returns, keeping records, submitting to DOR inspections and examinations, and paying expenses reasonably attributable to these inspections and examinations made by DOR at any premises of the permittee located outside of the state, which are already required under ch. 139, stats.

The bill also authorizes DOR to revoke or suspend any alcohol beverages license or permit issued in the state if the licensee or permittee ships alcohol into another state in violation of that state's law.

Lastly, the bill first applies to permits that are issued after the effective date of the ^{bill} draft and has a 3-month delayed effective date.



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 **AN ACT to renumber** 125.30 (3) and 125.58 (2); **to amend** 125.30 (2) (intro.) and
2 125.535 (3) (c); and **to create** 125.30 (2) (d), 125.30 (3) (b), 125.535 (3) (b) 3.,
3 125.535 (3) (d) and (e) and 125.58 (2) (b) and (c) of the statutes; **relating to:**
4 enforcement of alcohol beverage laws against out-of-state alcohol beverage
5 shippers and direct wine shippers.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Alcohol Beverages Enforcement.

****NOTE: I will insert the rest of the Pref Note when the draft is finalized and the Pref Note is available.

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

125.30 (2) The application for an out-of-state shipper's permit and the permit shall be on forms prescribed by the department which shall contain provisions

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Pref note

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1 determined by the department as necessary to effectuate the purposes of ss. 139.01
2 to 139.25 and shall include a provision that the permittee agrees to all of the
3 following:

4 (a) ~~To comply~~ Comply with s. 139.05 relating to filing a bond, filing returns,
5 paying taxes, and record keeping;.

6 (b) ~~To permit~~ Permit inspections and examinations of the permittee's premises
7 and records by the department and its duly authorized employees, as authorized
8 under s. 139.08 (4); and.

9 (c) ~~To pay~~ Pay the expenses reasonably attributable to such inspections and
10 examinations made within the United States.

11 **SECTION 2.** 125.30 (2) (d) of the statutes is created to read:^f

12 125.30 (2) (d) Accept service of process and consent to jurisdiction in any
13 proceeding in this state to enforce the provisions of this chapter or ch. 139.

14 **SECTION 3.** 125.30 (3) of the statutes is renumbered 125.30 (3) (a).^f

15 **SECTION 4.** 125.30 (3) (b) of the statutes is created to read:^f

16 125.30 (3) (b) 1. A permittee under this section shall appoint and continually
17 engage the services of an agent in this state to act as agent for the service of process
18 on whom all processes, and any action or proceeding against it concerning or arising
19 out of the enforcement of any provision of this chapter or ch. 139, may be served in
20 any manner authorized by law. That service shall constitute legal and valid service
21 of process on the permittee. The permittee shall provide to the department, in the
22 form and manner prescribed by the department, the name, address, phone number,
23 and proof of the appointment and availability of the agent.

24 2. The permittee shall provide notice to the department 30 calendar days before
25 termination of the authority of an agent under subd. 1. and shall provide proof to the

1 satisfaction of the department of the appointment of a new agent no less than 5
2 calendar days before the termination of an existing agent appointment. In the event
3 an agent terminates an agency appointment, the permittee shall notify the
4 department of that termination within 5 calendar days and shall include proof to the
5 satisfaction of the department of the appointment of a new agent.

6 3. If a permittee fails to maintain an agent in this state after a permit is issued
7 under this section, the permittee is considered to have appointed the department of
8 financial institutions as the permittee's agent and the permittee may be proceeded
9 against in courts of this state by service of process upon the department of financial
10 institutions.

11 **SECTION 5.** 125.535 (3) (b) 3. of the statutes is created to read:^{1A}

12 125.535 (3) (b) 3. The winery satisfies all requirements under par. (d).

13 **SECTION 6.** 125.535 (3) (c) of the statutes is amended to read:^{1A}

14 125.535 (3) (c) Notwithstanding s. 125.04 (5) (a), natural persons obtaining
15 direct wine shippers' permits are not required to be residents of this state.
16 Notwithstanding s. 125.04 (5) (a) 5., a person is not required to complete a
17 responsible beverage server training course to be eligible for a permit under this
18 section. ~~Corporations and limited liability companies obtaining direct wine shippers'~~
19 ~~permits are subject to s. 125.04 (6) and any other person, including any natural~~
20 ~~person or cooperative, obtaining a direct wine shipper's permit shall appoint an~~
21 ~~agent, and be subject to all provisions of s. 125.04 (6), in the same manner applicable~~
22 ~~to corporations and limited liability companies. Notwithstanding s. 125.04 (5) (a) 2.~~
23 ~~and (c), an agent appointed under s. 125.04 (6) by a corporation or limited liability~~
24 ~~company obtaining a direct wine shipper's permit is not required to be a resident of~~
25 this state.

1 **SECTION 7.** 125.535 (3) (d) and (e) of the statutes are created to read:^{1A}

2 125.535 (3) (d) 1. Unless the permittee or agent of the permittee appointed
3 under s. 125.04 (6) is a resident of this state, or unless the permittee maintains a
4 registered agent in this state under s. 180.0501, 180.1507, 183.0105, or 183.1007, a
5 permittee under this section shall appoint and continually engage the services of an
6 agent in this state to act as agent for the service of process on whom all processes,
7 and any action or proceeding against it concerning or arising out of the enforcement
8 of any provision of this chapter or ch. 139, may be served in any manner authorized
9 by law. That service shall constitute legal and valid service of process on the
10 permittee. The permittee shall provide to the department, in the form and manner
11 prescribed by the department, the name, address, phone number, and proof of the
12 appointment and availability of the agent.

13 2. The permittee shall provide notice to the department 30 calendar days before
14 termination of the authority of an agent under subd. 1. and shall provide proof to the
15 satisfaction of the department of the appointment of a new agent no less than 5
16 calendar days before the termination of an existing agent appointment. In the event
17 an agent terminates an agency appointment, the permittee shall notify the
18 department of that termination within 5 calendar days and shall include proof to the
19 satisfaction of the department of the appointment of a new agent.

20 3. If a permittee fails to maintain an agent in this state after a permit is issued
21 under this section, the permittee is considered to have appointed the department of
22 financial institutions as the permittee's agent and the permittee may be proceeded
23 against in courts of this state by service of process upon the department of financial
24 institutions.

1 (e) The application for a permit under this section shall include a provision that
2 the permittee agrees to all of the following:

3 1. File reports, provide records, and allow inspections and examinations to the
4 extent provided in ch. 139.

5 2. Pay the expenses reasonably attributable to inspections and examinations
6 made by the department at any premises of the permittee located outside this state.

7 3. Accept service of process and consent to jurisdiction in any proceeding in this
8 state to enforce the provisions of this chapter or ch. 139.

9 **SECTION 8.** 125.58 (2) of the statutes is renumbered 125.58 (2) (a).^{1A}

10 **SECTION 9.** 125.58 (2) (b) and (c) of the statutes are created to read:¹

11 125.58 (2) (b) 1. Unless the permittee or agent of the permittee appointed under
12 s. 125.04 (6) is a resident of this state, or unless the permittee maintains a registered
13 agent in this state under s. 180.0501, 180.1507, 183.0105, or 183.1007, a permittee
14 under this section shall appoint and continually engage the services of an agent in
15 this state to act as agent for the service of process on whom all processes, and any
16 action or proceeding against it concerning or arising out of the enforcement of any
17 provision of this chapter or ch. 139, may be served in any manner authorized by law.
18 That service shall constitute legal and valid service of process on the permittee. The
19 permittee shall provide to the department, in the form and manner prescribed by the
20 department, the name, address, phone number, and proof of the appointment and
21 availability of the agent.

22 2. The permittee shall provide notice to the department 30 calendar days before
23 termination of the authority of an agent under subd. 1. and shall provide proof to the
24 satisfaction of the department of the appointment of a new agent no less than 5
25 calendar days before the termination of an existing agent appointment. In the event

SECTION 9

1 an agent terminates an agency appointment, the permittee shall notify the
2 department of that termination within 5 calendar days and shall include proof to the
3 satisfaction of the department of the appointment of a new agent.

4 3. If a permittee fails to maintain an agent in this state after a permit is issued
5 under this section, the permittee is considered to have appointed the department of
6 financial institutions as the permittee's agent and the permittee may be proceeded
7 against in courts of this state by service of process upon the department of financial
8 institutions.

9 (c) The application for a permit under this section shall include a provision that
10 the permittee agrees to all of the following:

11 1. File reports, provide records, and allow inspections and examinations to the
12 extent provided in ch. 139.

13 2. Pay the expenses reasonably attributable to inspections and examinations
14 made by the department at the premises of the permittee located outside this state.

15 3. Accept service of process and consent to jurisdiction in any proceeding in this
16 state to enforce the provisions of this chapter or ch. 139.

17 **SECTION 10. Initial applicability.**

18 (1) This act first applies with respect to permits issued after the effective date
19 of this subsection.

20 **SECTION 11. Effective date.**

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

23 (END)

*Change
component*
*insert
6-18*

2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0718/P2ins
ARG:...

sav

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INSERT 1-6:

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SECTION 1. 125.12 (4) (ag) 9. of the statutes is created to read:

4

125.12 (4) (ag) 9. That the licensee has shipped alcohol beverages to any person in another state in violation of that state's law.

5

6

SECTION 2. 125.12 (5) of the statutes is renumbered 125.12 (5) (a) and amended to read:

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125.12 (5) (a) The department may, after notice and an opportunity for hearing, revoke, suspend, or refuse to renew any retail permit issued by it for the causes provided in sub. (4) and any other permit issued by it under this chapter for any violation of this chapter or ch. 139, except that, for a violation of sub. (4) (ag) 6. with respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or 139.035, the department shall revoke the license or permit.

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(c) A revocation, suspension, or refusal to renew is a contested case under ch. 227.

15

History: 1981 c. 79; 1983 a. 516; 1987 a. 93; 1993 a. 98; 1995 a. 27 s. 9126 (19); 1995 a. 417, 448; 1997 a. 27, 35, 166, 187; 1999 a. 9; 2005 a. 14, 25, 442; 2007 a. 20 s. 9121 (6) (a); 2007 a. 85; 2009 a. 12.

16

SECTION 3. 125.12 (5) (b) of the statutes is created to read:

17

125.12 (5) (b) The department may, after notice and an opportunity for hearing, revoke, suspend, or refuse to renew any permit issued by it under this chapter if the permittee has shipped alcohol beverages to any person in another state in violation of that state's law.

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1 **INSERT 6-18:**

2 (no P) The treatment of ss. 125.30 (2) and 125.535 (3) (b) 3., (c), (d), and (e), the
3 renumbering of ss. 125.30 (3) and 125.58 (2), and the creation of ss. 125.30 (2) (d) and
4 (3) (b) and 125.58 (2) (b) and (c) first apply

5



Today

P3

m
11/15

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

11/15 - changes on p. 2 per Mike Queensland AAC

only change - p. 2

1 **AN ACT to renumber** 125.30 (3) and 125.58 (2); **to renumber and amend** 125.12
2 (5); **to amend** 125.30 (2) and 125.535 (3) (c); and **to create** 125.12 (4) (ag) 9.,
3 125.12 (5) (b), 125.30 (2) (d), 125.30 (3) (b), 125.535 (3) (b) 3., 125.535 (3) (d) and
4 (e) and 125.58 (2) (b) and (c) of the statutes; **relating to:** enforcement of alcohol
5 beverage laws against out-of-state alcohol beverage shippers and direct wine
6 shippers.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Alcohol Beverages Enforcement.

Background

Current law regulating alcohol beverages is generally found in chs. 125 and 139, stats. The former sets forth the law regarding the authority and restrictions applicable to the manufacture, wholesale (distribution), and retail sales of alcohol beverages. The latter sets forth the law regarding the occupational (excise) taxation of alcohol beverages.

There are 3 types of alcohol beverages permits that the Department of Revenue (DOR) may issue to a person, corporation, or limited liability company located outside of the state. These permits are: (1) the out-of-state fermented malt beverages (beer) shippers' permit; (2) the out-of-state intoxicating liquor (distilled spirits and wine, "liquor") shippers' permit; and (3) the direct wine shippers' permit. Subject to various restrictions, the out-of-state beer shippers' permit authorizes a person located outside of the state to ship beer to a person holding a beer wholesalers' permit. The out-of-state liquor shippers' permit, subject to various restrictions, authorizes a person located outside of the state to ship liquor to a person holding a liquor wholesaler permit, manufacturer's or rectifier's permit, or a winery permit. The direct wine shippers' permit, also subject to various restrictions, authorizes the manufacturer of wine located either inside or outside of the state to ship wine directly to individuals in the state who are of the legal drinking age, acknowledge receipt of the wine shipped, and are not intoxicated at the time of delivery.

The Bill

The bill requires out-of-state beer shippers' permittees, out-of-state liquor shippers' permittees, and direct wine shippers' permittees located outside of the state to consent to jurisdiction in this state for any proceeding in this state to enforce alcohol beverages laws found in chs. 125 and 139, stats.

Out-of-state beer shippers' permittees, out-of-state liquor shippers' permittees, and direct wine shippers' permittees located outside of the state must also accept service of process in this state for any proceeding in this state to enforce alcohol beverages laws found in chs. 125 and 139, stats. In order to accept service of process in this state, these permittees must do all of the following:

- Appoint and continually engage the services of an agent in this state to act as agent for the service of process on whom all processes, and any action or proceeding against it concerning or arising out of the enforcement of any provision of chs. 125 and 139, stats., may be served in any manner authorized by law. That service constitutes legal and valid service of process on the permittee.

- Provide to DOR, in the form and manner prescribed by DOR, the name, address, phone number, and proof of the appointment and availability of the agent.

- Provide notice to DOR 30 calendar days before termination of the authority of an agent appointed to accept service of process described above, and proof to DOR's satisfaction of the appointment of a new agent no less than 5 calendar days before the termination of an existing agent appointment.

- In the event an agent terminates an agency appointment, notify DOR of that termination within 5 calendar days and include proof to DOR's satisfaction of the appointment of a new agent.

Under the bill, if an out-of-state beer shippers' permittee, out-of-state liquor shippers' permittee, or direct wine shippers' permittee located out-of-state fails to maintain an agent in this state after a permit is issued, the permittee is considered to have appointed the Department of Financial Institutions (DFI) as the permittee's agent and the permittee may be proceeded against in courts of this state by service of process upon DFI. The bill also codifies in ch. 125, stats., requirements regarding the payment of occupational taxes, filing reports and tax returns, keeping records, submitting to DOR inspections and examinations, and paying expenses reasonably attributable to these inspections and examinations made by DOR at any premises of the permittee located outside of the state, which are already required under ch. 139, stats.

The bill also authorizes DOR to revoke or suspend any alcohol beverages license or permit issued in the state if the licensee or permittee ships alcohol into another state in violation of that state's law.

Lastly, the bill first applies to permits that are issued after the effective date of the bill and has a 3-month delayed effective date.

Insert

1 **SECTION 1.** 125.12 (4) (ag) 9. of the statutes is created to read:

2 125.12 (4) (ag) 9. That the licensee has shipped alcohol beverages to any person
3 in another state in violation of that state's law.

4 **SECTION 2.** 125.12 (5) of the statutes is renumbered 125.12 (5) (a) and amended
5 to read:

6 125.12 (5) (a) The department may, after notice and an opportunity for hearing,
7 revoke, suspend, or refuse to renew any retail permit issued by it for the causes
8 provided in sub. (4) and any other permit issued by it under this chapter for any
9 violation of this chapter or ch. 139, except that, for a violation of sub. (4) (ag) 6. with
10 respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or
11 139.035, the department shall revoke the license or permit.

12 (c) A revocation, suspension, or refusal to renew is a contested case under ch.
13 227.

14 **SECTION 3.** 125.12 (5) (b) of the statutes is created to read:

15 125.12 (5) (b) The department may, after notice and an opportunity for hearing,
16 revoke, suspend, or refuse to renew any permit issued by it under this chapter if the
17 permittee has shipped alcohol beverages to any person in another state in violation
18 of that state's law.

19 **SECTION 4.** 125.30 (2) of the statutes is amended to read:

20 125.30 (2) The application for an out-of-state shipper's permit and the permit
21 shall be on forms prescribed by the department which shall contain provisions
22 determined by the department as necessary to effectuate the purposes of ss. 139.01
23 to 139.25 and shall include a provision that the permittee agrees to all of the
24 following:

1 (a) ~~To comply~~ Comply with s. 139.05 relating to filing a bond, filing returns,
2 paying taxes, and record keeping;.

3 (b) ~~To permit~~ Permit inspections and examinations of the permittee's premises
4 and records by the department and its duly authorized employees, as authorized
5 under s. 139.08 (4); ~~and~~.

6 (c) ~~To pay~~ Pay the expenses reasonably attributable to such inspections and
7 examinations made within the United States.

8 **SECTION 5.** 125.30 (2) (d) of the statutes is created to read:

9 125.30 (2) (d) Accept service of process and consent to jurisdiction in any
10 proceeding in this state to enforce the provisions of this chapter or ch. 139.

11 **SECTION 6.** 125.30 (3) of the statutes is renumbered 125.30 (3) (a).

12 **SECTION 7.** 125.30 (3) (b) of the statutes is created to read:

13 125.30 (3) (b) 1. A permittee under this section shall appoint and continually
14 engage the services of an agent in this state to act as agent for the service of process
15 on whom all processes, and any action or proceeding against it concerning or arising
16 out of the enforcement of any provision of this chapter or ch. 139, may be served in
17 any manner authorized by law. That service shall constitute legal and valid service
18 of process on the permittee. The permittee shall provide to the department, in the
19 form and manner prescribed by the department, the name, address, phone number,
20 and proof of the appointment and availability of the agent.

21 2. The permittee shall provide notice to the department 30 calendar days before
22 termination of the authority of an agent under subd. 1. and shall provide proof to the
23 satisfaction of the department of the appointment of a new agent no less than 5
24 calendar days before the termination of an existing agent appointment. In the event
25 an agent terminates an agency appointment, the permittee shall notify the

1 department of that termination within 5 calendar days and shall include proof to the
2 satisfaction of the department of the appointment of a new agent.

3 3. If a permittee fails to maintain an agent in this state after a permit is issued
4 under this section, the permittee is considered to have appointed the department of
5 financial institutions as the permittee's agent and the permittee may be proceeded
6 against in courts of this state by service of process upon the department of financial
7 institutions.

8 **SECTION 8.** 125.535 (3) (b) 3. of the statutes is created to read:

9 125.535 (3) (b) 3. The winery satisfies all requirements under par. (d).

10 **SECTION 9.** 125.535 (3) (c) of the statutes is amended to read:

11 125.535 (3) (c) Notwithstanding s. 125.04 (5) (a), natural persons obtaining
12 direct wine shippers' permits are not required to be residents of this state.
13 Notwithstanding s. 125.04 (5) (a) 5., a person is not required to complete a
14 responsible beverage server training course to be eligible for a permit under this
15 section. ~~Corporations and limited liability companies obtaining direct wine shippers'~~
16 ~~permits are subject to s. 125.04 (6) and any other person, including any natural~~
17 ~~person or cooperative, obtaining a direct wine shipper's permit shall appoint an~~
18 ~~agent, and be subject to all provisions of s. 125.04 (6), in the same manner applicable~~
19 ~~to corporations and limited liability companies. Notwithstanding s. 125.04 (5) (a) 2,~~
20 ~~and (c), an agent appointed under s. 125.04 (6) by a corporation or limited liability~~
21 ~~company obtaining a direct wine shipper's permit is not required to be a resident of~~
22 this state.

23 **SECTION 10.** 125.535 (3) (d) and (e) of the statutes are created to read:

24 125.535 (3) (d) 1. Unless the permittee or agent of the permittee appointed
25 under s. 125.04 (6) is a resident of this state, or unless the permittee maintains a

1 registered agent in this state under s. 180.0501, 180.1507, 183.0105, or 183.1007, a
2 permittee under this section shall appoint and continually engage the services of an
3 agent in this state to act as agent for the service of process on whom all processes,
4 and any action or proceeding against it concerning or arising out of the enforcement
5 of any provision of this chapter or ch. 139, may be served in any manner authorized
6 by law. That service shall constitute legal and valid service of process on the
7 permittee. The permittee shall provide to the department, in the form and manner
8 prescribed by the department, the name, address, phone number, and proof of the
9 appointment and availability of the agent.

10 2. The permittee shall provide notice to the department 30 calendar days before
11 termination of the authority of an agent under subd. 1. and shall provide proof to the
12 satisfaction of the department of the appointment of a new agent no less than 5
13 calendar days before the termination of an existing agent appointment. In the event
14 an agent terminates an agency appointment, the permittee shall notify the
15 department of that termination within 5 calendar days and shall include proof to the
16 satisfaction of the department of the appointment of a new agent.

17 3. If a permittee fails to maintain an agent in this state after a permit is issued
18 under this section, the permittee is considered to have appointed the department of
19 financial institutions as the permittee's agent and the permittee may be proceeded
20 against in courts of this state by service of process upon the department of financial
21 institutions.

22 (e) The application for a permit under this section shall include a provision that
23 the permittee agrees to all of the following:

24 1. File reports, provide records, and allow inspections and examinations to the
25 extent provided in ch. 139.

1 2. Pay the expenses reasonably attributable to inspections and examinations
2 made by the department at any premises of the permittee located outside this state.

3 3. Accept service of process and consent to jurisdiction in any proceeding in this
4 state to enforce the provisions of this chapter or ch. 139.

5 **SECTION 11.** 125.58 (2) of the statutes is renumbered 125.58 (2) (a).

6 **SECTION 12.** 125.58 (2) (b) and (c) of the statutes are created to read:

7 125.58 (2) (b) 1. Unless the permittee or agent of the permittee appointed under
8 s. 125.04 (6) is a resident of this state, or unless the permittee maintains a registered
9 agent in this state under s. 180.0501, 180.1507, 183.0105, or 183.1007, a permittee
10 under this section shall appoint and continually engage the services of an agent in
11 this state to act as agent for the service of process on whom all processes, and any
12 action or proceeding against it concerning or arising out of the enforcement of any
13 provision of this chapter or ch. 139, may be served in any manner authorized by law.
14 That service shall constitute legal and valid service of process on the permittee. The
15 permittee shall provide to the department, in the form and manner prescribed by the
16 department, the name, address, phone number, and proof of the appointment and
17 availability of the agent.

18 2. The permittee shall provide notice to the department 30 calendar days before
19 termination of the authority of an agent under subd. 1. and shall provide proof to the
20 satisfaction of the department of the appointment of a new agent no less than 5
21 calendar days before the termination of an existing agent appointment. In the event
22 an agent terminates an agency appointment, the permittee shall notify the
23 department of that termination within 5 calendar days and shall include proof to the
24 satisfaction of the department of the appointment of a new agent.

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0718/P3ins
ARG:...

1

2

3

INSERT:

(no 9) , except with respect to suspending or revoking a permit if the permittee illegally ships alcohol into another state, and the bill has a delayed effective date of approximately two months.

4

2

Gary, Aaron

From: Queensland, Michael
Sent: Friday, November 16, 2018 8:53 AM
To: Gary, Aaron
Cc: Schmidt, Melissa
Subject: alcohol beverages study bill drafts

Hi Aaron,

Please convert LRB-0717/P2 and LRB-0718/P3 into /1. Also, please convert LRB-0716/P2, with the change that I emailed you earlier this morning, into a /1.

Thanks for all your help.

Mike

Michael J. Queensland
Senior Staff Attorney
Wisconsin Legislative Council
(608) 504-5725
<http://lc.legis.wisconsin.gov/>



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0718/12
ARG:ahe

Now-ish 11/16

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** to renumber 125.30 (3) and 125.58 (2); to renumber and amend 125.12
2 (5); to amend 125.30 (2) and 125.535 (3) (c); and to create 125.12 (4) (ag) 9.,
3 125.12 (5) (b), 125.30 (2) (d), 125.30 (3) (b), 125.535 (3) (b) 3., 125.535 (3) (d) and
4 (e) and 125.58 (2) (b) and (c) of the statutes; relating to: enforcement of alcohol
5 beverage laws against out-of-state alcohol beverage shippers and direct wine
6 shippers.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Alcohol Beverages Enforcement.

Background

Current law regulating alcohol beverages is generally found in chs. 125 and 139, stats. The former sets forth the law regarding the authority and restrictions applicable to the manufacture, wholesale (distribution), and retail sales of alcohol beverages. The latter sets forth the law regarding the occupational (excise) taxation of alcohol beverages.

There are 3 types of alcohol beverages permits that the Department of Revenue (DOR) may issue to a person, corporation, or limited liability company located outside of the state. These permits are: (1) the out-of-state fermented malt beverages (beer) shippers' permit; (2) the out-of-state intoxicating liquor (distilled spirits and wine, "liquor") shippers' permit; and (3) the direct wine shippers' permit. Subject to various restrictions, the out-of-state beer shippers' permit authorizes a person located outside of the state to ship beer to a person holding a beer wholesalers' permit. The out-of-state liquor shippers' permit, subject to various restrictions, authorizes a person located outside of the state to ship liquor to a person holding a liquor wholesaler permit, manufacturer's or rectifier's permit, or a winery permit. The direct wine shippers' permit, also subject to various restrictions, authorizes the manufacturer of wine located either inside or outside of the state to ship wine directly to individuals in the state who are of the legal drinking age, acknowledge receipt of the wine shipped, and are not intoxicated at the time of delivery.

The Bill

The bill requires out-of-state beer shippers' permittees, out-of-state liquor shippers' permittees, and direct wine shippers' permittees located outside of the state to consent to jurisdiction in this state for any proceeding in this state to enforce alcohol beverages laws found in chs. 125 and 139, stats.

Out-of-state beer shippers' permittees, out-of-state liquor shippers' permittees, and direct wine shippers' permittees located outside of the state must also accept service of process in this state for any proceeding in this state to enforce alcohol beverages laws found in chs. 125 and 139, stats. In order to accept service of process in this state, these permittees must do all of the following:

- Appoint and continually engage the services of an agent in this state to act as agent for the service of process on whom all processes, and any action or proceeding against it concerning or arising out of the enforcement of any provision of chs. 125 and 139, stats., may be served in any manner authorized by law. That service constitutes legal and valid service of process on the permittee.

- Provide to DOR, in the form and manner prescribed by DOR, the name, address, phone number, and proof of the appointment and availability of the agent.

- Provide notice to DOR 30 calendar days before termination of the authority of an agent appointed to accept service of process described above, and proof to DOR's satisfaction of the appointment of a new agent no less than 5 calendar days before the termination of an existing agent appointment.

- In the event an agent terminates an agency appointment, notify DOR of that termination within 5 calendar days and include proof to DOR's satisfaction of the appointment of a new agent.

Under the bill, if an out-of-state beer shippers' permittee, out-of-state liquor shippers' permittee, or direct wine shippers' permittee located out-of-state fails to maintain an agent in this state after a permit is issued, the permittee is considered to have appointed the Department of Financial Institutions (DFI) as the permittee's agent and the permittee may be proceeded against in courts of this state by service of process upon DFI. The bill also codifies in ch. 125, stats., requirements regarding the payment of occupational taxes, filing reports and tax returns, keeping records, submitting to DOR inspections and examinations, and paying expenses reasonably attributable to these inspections and examinations made by DOR at any premises of the permittee located outside of the state, which are already required under ch. 139, stats.

The bill also authorizes DOR to revoke or suspend any alcohol beverages license or permit issued in the state if the licensee or permittee ships alcohol into another state in violation of that state's law.

Lastly, the bill first applies to permits that are issued after the effective date of the bill, except with respect to suspending or revoking a permit if the permittee illegally ships

alcohol into another state, and the bill has a delayed effective date of approximately 2 months.

1 **SECTION 1.** 125.12 (4) (ag) 9. of the statutes is created to read:

2 125.12 (4) (ag) 9. That the licensee has shipped alcohol beverages to any person
3 in another state in violation of that state's law.

4 **SECTION 2.** 125.12 (5) of the statutes is renumbered 125.12 (5) (a) and amended
5 to read:

6 125.12 (5) (a) The department may, after notice and an opportunity for hearing,
7 revoke, suspend, or refuse to renew any retail permit issued by it for the causes
8 provided in sub. (4) and any other permit issued by it under this chapter for any
9 violation of this chapter or ch. 139, except that, for a violation of sub. (4) (ag) 6. with
10 respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or
11 139.035, the department shall revoke the license or permit.

12 (c) A revocation, suspension, or refusal to renew is a contested case under ch.
13 227.

14 **SECTION 3.** 125.12 (5) (b) of the statutes is created to read:

15 125.12 (5) (b) The department may, after notice and an opportunity for hearing,
16 revoke, suspend, or refuse to renew any permit issued by it under this chapter if the
17 permittee has shipped alcohol beverages to any person in another state in violation
18 of that state's law.

19 **SECTION 4.** 125.30 (2) of the statutes is amended to read:

20 125.30 (2) The application for an out-of-state shipper's permit and the permit
21 shall be on forms prescribed by the department which shall contain provisions
22 determined by the department as necessary to effectuate the purposes of ss. 139.01

1 to 139.25 and shall include a provision that the permittee agrees to all of the
2 following:

3 (a) ~~To comply~~ Comply with s. 139.05 relating to filing a bond, filing returns,
4 paying taxes, and record keeping;

5 (b) ~~To permit~~ Permit inspections and examinations of the permittee's premises
6 and records by the department and its duly authorized employees, as authorized
7 under s. 139.08 (4); ~~and~~.

8 (c) ~~To pay~~ Pay the expenses reasonably attributable to such inspections and
9 examinations made within the United States.

10 **SECTION 5.** 125.30 (2) (d) of the statutes is created to read:

11 125.30 (2) (d) Accept service of process and consent to jurisdiction in any
12 proceeding in this state to enforce the provisions of this chapter or ch. 139.

13 **SECTION 6.** 125.30 (3) of the statutes is renumbered 125.30 (3) (a).

14 **SECTION 7.** 125.30 (3) (b) of the statutes is created to read:

15 125.30 (3) (b) 1. A permittee under this section shall appoint and continually
16 engage the services of an agent in this state to act as agent for the service of process
17 on whom all processes, and any action or proceeding against it concerning or arising
18 out of the enforcement of any provision of this chapter or ch. 139, may be served in
19 any manner authorized by law. That service shall constitute legal and valid service
20 of process on the permittee. The permittee shall provide to the department, in the
21 form and manner prescribed by the department, the name, address, phone number,
22 and proof of the appointment and availability of the agent.

23 2. The permittee shall provide notice to the department 30 calendar days before
24 termination of the authority of an agent under subd. 1. and shall provide proof to the
25 satisfaction of the department of the appointment of a new agent no less than 5

1 calendar days before the termination of an existing agent appointment. In the event
2 an agent terminates an agency appointment, the permittee shall notify the
3 department of that termination within 5 calendar days and shall include proof to the
4 satisfaction of the department of the appointment of a new agent.

5 3. If a permittee fails to maintain an agent in this state after a permit is issued
6 under this section, the permittee is considered to have appointed the department of
7 financial institutions as the permittee's agent and the permittee may be proceeded
8 against in courts of this state by service of process upon the department of financial
9 institutions.

10 **SECTION 8.** 125.535 (3) (b) 3. of the statutes is created to read:

11 125.535 (3) (b) 3. The winery satisfies all requirements under par. (d).

12 **SECTION 9.** 125.535 (3) (c) of the statutes is amended to read:

13 125.535 (3) (c) Notwithstanding s. 125.04 (5) (a), natural persons obtaining
14 direct wine shippers' permits are not required to be residents of this state.
15 Notwithstanding s. 125.04 (5) (a) 5., a person is not required to complete a
16 responsible beverage server training course to be eligible for a permit under this
17 section. ~~Corporations and limited liability companies obtaining direct wine shippers'~~
18 ~~permits are subject to s. 125.04 (6) and any other person, including any natural~~
19 ~~person or cooperative, obtaining a direct wine shipper's permit shall appoint an~~
20 ~~agent, and be subject to all provisions of s. 125.04 (6), in the same manner applicable~~
21 ~~to corporations and limited liability companies. Notwithstanding s. 125.04 (5) (a) 2.~~
22 ~~and (c), an agent appointed under s. 125.04 (6) by a corporation or limited liability~~
23 ~~company obtaining a direct wine shipper's permit is not required to be a resident of~~
24 this state.

25 **SECTION 10.** 125.535 (3) (d) and (e) of the statutes are created to read:

1 125.535 (3) (d) 1. Unless the permittee or agent of the permittee appointed
2 under s. 125.04 (6) is a resident of this state, or unless the permittee maintains a
3 registered agent in this state under s. 180.0501, 180.1507, 183.0105, or 183.1007, a
4 permittee under this section shall appoint and continually engage the services of an
5 agent in this state to act as agent for the service of process on whom all processes,
6 and any action or proceeding against it concerning or arising out of the enforcement
7 of any provision of this chapter or ch. 139, may be served in any manner authorized
8 by law. That service shall constitute legal and valid service of process on the
9 permittee. The permittee shall provide to the department, in the form and manner
10 prescribed by the department, the name, address, phone number, and proof of the
11 appointment and availability of the agent.

12 2. The permittee shall provide notice to the department 30 calendar days before
13 termination of the authority of an agent under subd. 1. and shall provide proof to the
14 satisfaction of the department of the appointment of a new agent no less than 5
15 calendar days before the termination of an existing agent appointment. In the event
16 an agent terminates an agency appointment, the permittee shall notify the
17 department of that termination within 5 calendar days and shall include proof to the
18 satisfaction of the department of the appointment of a new agent.

19 3. If a permittee fails to maintain an agent in this state after a permit is issued
20 under this section, the permittee is considered to have appointed the department of
21 financial institutions as the permittee's agent and the permittee may be proceeded
22 against in courts of this state by service of process upon the department of financial
23 institutions.

24 (e) The application for a permit under this section shall include a provision that
25 the permittee agrees to all of the following:

1 1. File reports, provide records, and allow inspections and examinations to the
2 extent provided in ch. 139.

3 2. Pay the expenses reasonably attributable to inspections and examinations
4 made by the department at any premises of the permittee located outside this state.

5 3. Accept service of process and consent to jurisdiction in any proceeding in this
6 state to enforce the provisions of this chapter or ch. 139.

7 **SECTION 11.** 125.58 (2) of the statutes is renumbered 125.58 (2) (a).

8 **SECTION 12.** 125.58 (2) (b) and (c) of the statutes are created to read:

9 125.58 (2) (b) 1. Unless the permittee or agent of the permittee appointed under
10 s. 125.04 (6) is a resident of this state, or unless the permittee maintains a registered
11 agent in this state under s. 180.0501, 180.1507, 183.0105, or 183.1007, a permittee
12 under this section shall appoint and continually engage the services of an agent in
13 this state to act as agent for the service of process on whom all processes, and any
14 action or proceeding against it concerning or arising out of the enforcement of any
15 provision of this chapter or ch. 139, may be served in any manner authorized by law.
16 That service shall constitute legal and valid service of process on the permittee. The
17 permittee shall provide to the department, in the form and manner prescribed by the
18 department, the name, address, phone number, and proof of the appointment and
19 availability of the agent.

20 2. The permittee shall provide notice to the department 30 calendar days before
21 termination of the authority of an agent under subd. 1. and shall provide proof to the
22 satisfaction of the department of the appointment of a new agent no less than 5
23 calendar days before the termination of an existing agent appointment. In the event
24 an agent terminates an agency appointment, the permittee shall notify the

1 department of that termination within 5 calendar days and shall include proof to the
2 satisfaction of the department of the appointment of a new agent.

3 3. If a permittee fails to maintain an agent in this state after a permit is issued
4 under this section, the permittee is considered to have appointed the department of
5 financial institutions as the permittee's agent and the permittee may be proceeded
6 against in courts of this state by service of process upon the department of financial
7 institutions.

8 (c) The application for a permit under this section shall include a provision that
9 the permittee agrees to all of the following:

10 1. File reports, provide records, and allow inspections and examinations to the
11 extent provided in ch. 139.

12 2. Pay the expenses reasonably attributable to inspections and examinations
13 made by the department at the premises of the permittee located outside this state.

14 3. Accept service of process and consent to jurisdiction in any proceeding in this
15 state to enforce the provisions of this chapter or ch. 139.

16 **SECTION 13. Initial applicability.**

17 (1) The treatment of ss. 125.30 (2) and 125.535 (3) (b) 3., (c), (d), and (e), the
18 renumbering of ss. 125.30 (3) and 125.58 (2), and the creation of ss. 125.30 (2) (d) and
19 (3) (b) and 125.58 (2) (b) and (c) first apply with respect to permits issued after the
20 effective date of this subsection.

21 **SECTION 14. Effective date.**

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

24

(END)