



1997 SENATE BILL 408

January 20, 1998 - Introduced by Senators FARROW, DARLING, ROSENZWEIG, HUELSMAN, COWLES, WEEDEN and GROBSCHMIDT, cosponsored by Representatives URBAN, DUFF, STASKUNAS, BOCK, ROBSON, J. LEHMAN, WALKER, HARS DORF, LA FAVE, NOTESTEIN, WASSERMAN, OTTE, GROTHMAN, R. YOUNG, JESKEWITZ, F. LASEE and BRANDEMUEHL. Referred to Committee on Economic Development, Housing and Government Operations.

1 **AN ACT to repeal** 125.51 (3) (e) 2. and 3., 125.51 (4) (a) 4. and 125.51 (4) (b) 1m.,
2 (bm) and (br); **to renumber and amend** 125.51 (3) (e) 1.; **to consolidate,**
3 **renumber and amend** 125.51 (4) (b) (intro.) and 1g.; **to amend** 125.04 (12) (a);
4 **to create** 125.51 (4) (b) 1., 2., 3., 4. and 5. and 125.51 (4) (c), (d) and (f) to (u) of
5 the statutes; and **to affect** 1997 Wisconsin Act 27, section 9343 (1tv); **relating**
6 **to:** alcohol beverage "Class B" and reserve "Class B" licenses.

Analysis by the Legislative Reference Bureau

Current law delegates to municipalities (cities, villages and towns) the authority to issue on-premises liquor licenses, licenses which authorize the sale of intoxicating liquor to be consumed on the premises where sold. Current law imposes a quota on the number of licenses a municipality may issue.

Prior to 1997 Wisconsin Act 27, the biennial budget act, a municipality's quota was determined using a formula, but generally was the number of licenses that were issued by the municipality when the quota was first implemented plus an additional license for each 500 persons residing in the municipality. There were numerous specific exceptions to the quota authorizing municipalities to issue to qualifying premises licenses in excess of the quota. The annual fee for an on-premises intoxicating liquor license was established by the municipality in an amount of \$50 to \$500.

1997 Wisconsin Act 27 significantly modified the on-premises liquor license quota law. In general, the act reduced the number of on-premises liquor licenses

SENATE BILL 408

available to be issued by a municipality by “retiring” one-half of the authorized but unissued on-premises liquor licenses. Unlike other types of alcohol beverage licenses, the act made the remaining on-premises liquor licenses nontransferable from one location to another and established a minimum initial issuance fee of not less than \$10,000. A person desiring to obtain an on-premises liquor license may pay at least \$10,000 to the municipality for a nontransferable license, or obtain from another person a (transferable) on-premises liquor license that was issued before the enactment of 1997 Wisconsin Act 27.

This bill undoes these changes to the on-premises liquor license quota made by 1997 Wisconsin Act 27. The bill restores the quota law and its exceptions that existed prior to the enactment of that act.

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

1 **SECTION 1.** 125.04 (12) (a) of the statutes, as affected by 1997 Wisconsin Act 27,
2 is amended to read:

3 125.04 **(12)** (a) *From place to place.* Every alcohol beverage license or permit
4 may be transferred to another place or premises within the same municipality. An
5 alcohol beverage warehouse permit under s. 125.19, a winery permit under s. 125.53
6 or an intoxicating liquor wholesaler’s permit under s. 125.54 may be transferred to
7 another premises within this state. Transfers shall be made by the issuing authority
8 upon payment of a fee of \$10. No retail licensee, retail permittee, intoxicating liquor
9 wholesaler or holder of a warehouse or winery permit is entitled to more than one
10 transfer during the license or permit year. This paragraph does not apply to a license
11 issued under s. 125.51 (4) (v) ~~or to a reserve “Class B” license, as defined in s. 125.51~~
12 ~~(4) (a).~~

13 **SECTION 2.** 125.51 (3) (e) 1. of the statutes, as affected by 1997 Wisconsin Act
14 27, is renumbered 125.51 (3) (e) and amended to read:

15 125.51 **(3)** (e) ~~Except as provided in subds. 2. and 3., the~~ The annual fee for a
16 “Class B” license shall be established by the municipal governing body and shall be

SENATE BILL 408

1 the same for all "Class B" licenses, except that the minimum fee shall be \$50 and the
2 maximum fee shall be \$500. The minimum fee does not apply to licenses issued to
3 bona fide clubs and lodges situated and incorporated in the state for at least 6 years.

4 **SECTION 3.** 125.51 (3) (e) 2. and 3. of the statutes, as created by 1997 Wisconsin
5 Act 27, are repealed.

6 **SECTION 4.** 125.51 (4) (a) 4. of the statutes, as created by 1997 Wisconsin Act
7 27, is repealed.

8 **SECTION 5.** 125.51 (4) (b) (intro.) and 1g. of the statutes, as affected by 1997
9 Wisconsin Act 27, are consolidated, renumbered 125.51 (4) (b) (intro.) and amended
10 to read:

11 125.51 (4) (b) (intro.) The ~~Except as provided in pars. (c) and (d), the~~ quota of
12 each municipality is the sum of the following: 1g. The number of licenses granted
13 or issued in good faith by the municipality and in force on the first day of the 2nd
14 month beginning after the effective date of this subdivision [revisor inserts date].
15 under s. 176.05 (21) (h), 1975 stats., plus whichever of the following is the largest:

16 **SECTION 6.** 125.51 (4) (b) 1., 2., 3., 4. and 5. of the statutes are created to read:

17 125.51 (4) (b) 1. One license per 500 population or fraction thereof.

18 2. The number of licenses lawfully issued and in force within the municipality
19 on August 27, 1939.

20 3. The number of licenses lawfully issued and in force within the municipality
21 in the previous year.

22 4. In the case of a village or city incorporated since August 27, 1939, one license
23 per 500 population or fraction thereof at the time of incorporation.

SENATE BILL 408**SECTION 6**

1 5. In the case of any municipality incorporated or organized since August 27,
2 1939, the number of licenses lawfully issued and in force in the territory within the
3 municipality at the time of incorporation or organization.

4 **SECTION 7.** 125.51 (4) (b) 1m., (bm) and (br) of the statutes, as created by 1997
5 Wisconsin Act 27, are repealed.

6 **SECTION 8.** 125.51 (4) (c), (d) and (f) to (u) of the statutes are created to read:

7 125.51 (4) (c) If territory containing premises covered by a license is annexed
8 to the municipality and if the municipality's quota would not otherwise allow licenses
9 for the premises, the quota shall be increased to include a license for each premises
10 in the annexed territory.

11 (d) Detachment of territory shall decrease the quota of the remainder of the
12 municipality by the number of premises covered by licenses existing in the detached
13 territory, except that detachment shall not decrease the quota of the remainder to
14 less than one license per 500 persons or less than one license.

15 (f) Notwithstanding the quota of a town, licenses issued by the town under s.
16 176.05 (21) (k), 1979 stats., remain valid and may be renewed by the town board, but
17 the town board may not issue any new "Class B" licenses until the total number of
18 licenses is less than the quota.

19 (g) Notwithstanding the quota of a municipality, its governing body may, by a
20 three-fourths vote of its members, issue a license limited to the sale of wine for
21 consumption only on the premises to any person engaged in preserving a place of
22 historic significance built during the state's first 5 years of statehood and operating
23 the place as a restaurant.

24 (h) Notwithstanding the quota of a municipality, its governing body may, by a
25 three-fourths vote of its members, issue a license to any restaurant existing on

SENATE BILL 408

1 August 7, 1977, with a museum having permanent exhibition space open to the
2 public at least 3 times the area of the restaurant, whether or not the museum existed
3 on August 7, 1977.

4 (i) Notwithstanding the quota of the municipality, licenses issued under s.
5 176.05 (21) (h), 1979 stats., remain valid and may be renewed by the municipality.

6 (j) Each municipality that issues "Class B" licenses shall issue a "Class B"
7 license to any club which, on June 30, 1982, held a "Class B" license issued by the
8 department under s. 176.05 (4a), 1979 stats. Licenses issued under this paragraph
9 shall be renewed annually, upon application, unless revoked under s. 125.12. The
10 quota of a municipality is permanently increased by the number of licenses it issues
11 under this paragraph.

12 (k) Notwithstanding the quota of a town, the town board may issue a license
13 to any of the following:

14 1. An outdoor theater operated by a professional repertory theater company
15 most of whose productions consist of classical drama.

16 2. A conference center and restaurant used by the staff and patrons of a
17 professional repertory theater company for lodging and meetings.

18 (L) Notwithstanding the quota of a town, the town board may issue a license to
19 a person operating a ski chalet on property owned by the state.

20 (m) Notwithstanding the quota of a municipality, its governing body may, by
21 a three-fourths vote of its members, issue a license to any restaurant with a museum
22 having permanent exhibition space open to the public at least 3 times the area of the
23 restaurant if the building housing the museum was built during the first 8 years of
24 statehood or earlier.

SENATE BILL 408

1 (n) Notwithstanding its quota, a village may issue a license for a hotel owned
2 by an American Indian tribe.

3 (o) Notwithstanding its quota, a village may issue a license for a motel located
4 on a lake which is the headwaters of a river which is part of the border between this
5 state and Minnesota.

6 (p) Notwithstanding its quota, a town which borders on a lake, is adjacent to
7 a 2nd class city and is located in a county with a population of 300,000 or more may
8 issue a license for a tavern which is covered by a Class "B" license on December 8,
9 1987, if the tavern is not located within 500 feet of a lake.

10 (q) Notwithstanding the quota of a municipality, its governing body may issue
11 a license to persons conducting business at a racetrack, as defined in s. 562.01 (12).

12 (r) Notwithstanding its quota, a village may issue a license to a post of a
13 veteran's organization for a building that was rebuilt after being destroyed by a
14 tornado.

15 (s) Notwithstanding the quota of a municipality, its governing body may issue
16 a license to a restaurant and public golf course situated on at least 200 acres of land,
17 if the restaurant and public golf course are located adjacent to STH 57.

18 (sm) Notwithstanding the quota of a town, the town board may issue a license
19 to a person who owns a building located at the intersection of STH 11 and STH 80
20 in Grant County, if the person had a license under sub. (3) issued to him or her
21 previously.

22 (t) 1. Notwithstanding the quota of a municipality, its governing body may issue
23 a license to a restaurant that was established in 1949 and is located on STH 42 across
24 from a town park.

