

1999 DRAFTING REQUEST

Bill

Received: 12/17/98

Received By: nilsepe

Wanted: As time permits

Identical to LRB:

For: Tom Sykora (608) 266-1194

By/Representing:

This file may be shown to any legislator: NO

Drafter: nilsepe

May Contact:

Alt. Drafters:

Subject: Beverages - miscellaneous

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Liquor licenses for private fish farms

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nilsepe 03/25/99	chanaman 03/25/99		_____			
/1			jfrantze 03/30/99	_____	lrb_docadmin 03/30/99	lrb_docadmin 03/30/99	

FE Sent For:

<END>

Not Needed

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1?	nilsepe	CMM /1 3/25	3/29	3/30			

FE Sent For:

<END>

LEGISLATIVE REFERENCE BUREAU

Legal Section, 5th Floor, 100 N. Hamilton St.
 (608) 266-3561

BILL REQUEST FORM

1339

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.
 Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: 12/16/98	Legislator or agency requesting this draft: Rep. Tom Sykora
Name/phone number of person submitting request: Tom Sykora 206-1194	
Persons to contact for questions about this draft (names and phone numbers please): Sara Jermstad 206-1195	
Describe the problem, including any helpful examples. How do you want to solve the problem? Amend state statutes to enable state licensed recreational fish farms to obtain a liquor license	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	125.07 (3)(a)(5) 125.32 (3m)(f)

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

May we tell others that we are working on this for you? YES NO

If yes, anyone who asks? YES NO

Any legislator? YES NO ONLY the following persons:

Do you consider this urgent? YES NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?

YES NO If yes, please sign your name here:

10
11
12
13



14



ch. 139. The sale must be in the ordinary course of the business of lending money secured by a security interest in alcohol beverages or warehouse receipts or other evidence of ownership.

(9) **CERAMIC BOTTLE COLLECTORS.** The sale of ceramic commemorative bottles or other uniquely designed decanters which contain intoxicating liquor, by collectors of such containers to other collectors of such containers.

(10) **RAFFLES.** The awarding of alcohol beverages in original, unopened packages, containers or bottles as a prize, in a raffle conducted by an organization licensed to conduct the raffle under ch. 563, to any person who has attained the legal drinking age.

(11) **AUCTION SALES.** The sale by an auction house at public auction of a collection of sealed bottles of intoxicating liquor or unopened beer cans for the purpose of settling an estate or disposing of the collection.

(12) **BED AND BREAKFAST ESTABLISHMENTS.** The provision by a bed and breakfast establishment, as defined under s. 254.61 (1), of not more than 2 complimentary 4-fluid-ounce glasses of wine per day to a person renting a room at the bed and breakfast establishment for consumption on the premises of the bed and breakfast establishment.

History: 1981 c. 79, 202; 1983 a. 222, 360, 538; 1985 a. 337; 1987 a. 399; 1989 a. 253; 1991 a. 269; 1993 a. 226; 1995 a. 225.

125.07 Underage and intoxicated persons; presence on licensed premises; possession; penalties. (1) ALCOHOL BEVERAGES; RESTRICTIONS RELATING TO UNDERAGE PERSONS

(a) **Restrictions.** 1. No person may procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

3. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.

4. No adult may intentionally encourage or contribute to a violation of sub. (4) (a) or (b).

(b) **Penalties.** 1. In this paragraph, "violation" means a violation of this subsection or of a local ordinance that strictly conforms to par. (a) if the violation results in an imposition of a forfeiture or a conviction. For purposes of determining previous violations under subd. 2., the 30-month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation.

2. A person who commits a violation may be:

a. Required to forfeit not more than \$500 if the person has not committed a previous violation within 30 months of the violation.

b. Fined not more than \$500 or imprisoned for not more than 30 days or both if the person has committed a previous violation within 30 months of the violation.

c. Fined not more than \$1,000 or imprisoned for not more than 90 days or both if the person has committed 2 previous violations within 30 months of the violation.

d. Fined not more than \$10,000 or imprisoned for not more than 9 months or both if the person has committed 3 or more previous violations within 30 months of the violation.

3. A court shall suspend any license or permit issued under this chapter to a person for:

a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;

b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or

c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 other violations.

4. The court shall promptly mail notice of a suspension under this paragraph to the department and to the clerk of each municipality which has issued a license or permit to the person.

5. A person who holds a Class "A" license, a Class "B" license or permit, a "Class A" license or a "Class B" license or permit who commits a violation is subject to subd. 3. but is not subject to subd. 2. or s. 125.11.

(2) **SALES OF ALCOHOL BEVERAGES TO INTOXICATED PERSONS.**

(a) **Restrictions.** 1. No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.

2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

(b) **Penalties.** Any person who violates par. (a) shall be fined not less than \$100 nor more than \$500 or imprisoned for not more than 60 days or both.

(3) **PRESENCE IN PLACES OF SALE; PENALTY** (a) **Restrictions.**

An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter, knowingly attempt to enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employe. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:

1. An underage person who is a resident, employe, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.

2. An underage person who enters or is on a Class "A" or "Class A" premises for the purpose of purchasing items other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.

3. Hotels, drug stores, grocery stores, bowling centers, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums, public facilities as defined in s. 125.51 (5) (b) 1. d. which are owned by a county or municipality or centers for the visual or performing arts.

4. Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in chs. 27 and 28, and parks owned or operated by agricultural societies.

5. Ski chalets, golf courses and golf clubhouses, racetracks licensed under ch. 562, curling clubs, private soccer clubs and private tennis clubs.

6. Premises operated under both a Class "B" or "Class B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

6m. Premises operating under both a "Class C" license and a restaurant permit.

7. An underage person who enters or remains on a Class "B" or "Class B" premises for the purpose of transacting business at an auction or market, if the person does not enter or remain in a room where alcohol beverages are sold, furnished or possessed.

8. An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room

3. The daily operations of the Class "B" premises.

(b) The municipal governing body may, by ordinance, define factors in addition to those listed in par. (a) which constitute management of Class "B" premises.

(2) OPERATORS LICENSES CLASS "A" OR CLASS "B" PREMISES Except as provided under sub. (3) (b) and s. 125.07 (3) (a) 10., no premises operated under a Class "A" or Class "B" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or limited liability company, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under s. 125.27 (2) is valid outside the municipality that issues it. For the purpose of this subsection, any person holding a manager's license under s. 125.18 or any member of the licensee's or permittee's immediate family who has attained the age of 18 shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent may serve fermented malt beverages in any place operated under a Class "A" or Class "B" license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.

(2m) USE BY ANOTHER PROHIBITED. (a) No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.

(b) The license or permit of a person who violates par. (a) shall be revoked.

(3) CLOSING HOURS. (a) No premises for which a Class "B" license or permit is issued may remain open between the hours of 2 a.m. and 6 a.m., except as provided in this paragraph and par. (c). On Saturday and Sunday, the closing hours shall be between 2:30 a.m. and 6 a.m. On January 1 premises operating under a Class "B" license or permit are not required to close.

(am) Between 12 midnight and 6 a.m. no person may sell fermented malt beverages on Class "B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises.

(b) Class "A" premises may remain open for the conduct of their regular business but may not sell fermented malt beverages between 12 midnight and 8 a.m. Subsection (2) does not apply to Class "A" premises between 12 midnight and 8 a.m. or at any other time during which the sale of fermented malt beverages is prohibited by a municipal ordinance adopted under par. (d).

(c) Hotels and restaurants the principal business of which is the furnishing of food and lodging to patrons, bowling centers, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell fermented malt beverages during the hours specified in par. (a).

(d) A municipality may, by ordinance, impose more restrictive hours than those provided in par. (am) or (b), but may not impose different hours than those provided in par. (a) or (c).

(3m) LIMITATIONS ON OTHER BUSINESS; CLASS "B" PREMISES. No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

(a) A hotel.

(b) A restaurant, whether or not it is a part of or located in any mercantile establishment.

(c) A combination grocery store and tavern.

(d) A combination sporting goods store and tavern in towns, villages and 4th class cities.

(e) A combination novelty store and tavern.

(f) A bowling center or recreation premises.

(g) A club, society or lodge that has been in existence for 6 months or more prior to the date of filing application for the Class "B" license or permit.

(5) SIGNS NEAR TAPS AND BRANDS ON TAP; CLASS "B" PREMISES. Every Class "B" licensee or permittee selling or offering for sale draught fermented malt beverages shall display a sign on or near each tap or faucet disclosing the brand of fermented malt beverage drawn from the tap or faucet and the name of its brewer. No Class "B" licensee or permittee may substitute any other brand of fermented malt beverage in place of the brand designated on the sign with the intent to defraud or deceive the customer.

(6) LIMITATIONS ON BEVERAGES ON WHOLESALE AND RETAIL PREMISES. (a) Except as provided in s. 125.33 (2) (o) or 125.70, no person may possess on the premises covered by a retail or wholesale fermented malt beverages license or permit any alcohol beverages not authorized by law for sale on the premises.

(b) No fermented malt beverage licensee or permittee may keep any beverages of an alcoholic content prohibited by federal law on the premises covered by the license or permit.

(7) LABELS. (a) No fermented malt beverages may be sold, offered or exposed for sale, kept in possession with intent to sell, or served on any premises for which a license or permit for the sale of fermented malt beverages has been issued unless each barrel, keg, cask, bottle or other container bears a label or other identification with the name and address of the brewer. The possession of any fermented malt beverages which are not so identified on any premises for which a license or permit for the sale of fermented malt beverages has been issued is prima facie evidence that the fermented malt beverages are possessed with intent to sell, offer for sale, display for sale or give away.

(b) No container containing fermented malt beverages may be sold, offered or exposed for sale, kept in possession with intent to sell or served on any premises for which a license or permit for the sale of fermented malt beverages has been issued unless there is a label or other identification on the container bearing a statement of its contents in fluid ounces in plain legible type.

History: 1981 c. 79; 1983 a. 27, 74, 192, 452; 1985 a. 28, 33, 221, 317, 1987 a. 27, 121; 1989 a. 253; 1991 a. 28, 39, 315; 1993 a. 112; 1995 a. 320.

125.33 Restrictions on dealings between brewers, wholesalers and retailers. (1) FURNISHING THINGS OF VALUE.

(a) Except as provided in this section and s. 125.31, no brewer or wholesaler may furnish, give, lend, lease or sell any furniture, fixtures, fittings, equipment, money or other thing of value to any campus or Class "B" licensee or permittee, or to any person for the use, benefit or relief of any campus or Class "B" licensee or permittee, or guarantee the repayment of any loan or the fulfillment of any financial obligation of any campus or Class "B" licensee or permittee. Such actions may not be taken by the brewer or wholesaler directly or indirectly, or through a subsidiary or affiliate corporation or limited liability company, or by any officer, director, stockholder, partner or member thereof.

(b) No brewer or wholesaler may enter into any agreement whereby any campus or Class "B" licensee or permittee is required to purchase the fermented malt beverages of any brewer to the exclusion of those manufactured by other brewers. Such contracts may not be entered into by the brewer or wholesaler, directly or indirectly, or through a subsidiary or an affiliate corporation or limited liability company, or by any officer, director, stockholder, partner or member thereof.

(2) EXCEPTIONS. Notwithstanding the prohibitions in sub. (1), a brewer or wholesaler may:

(a) Give to any campus or Class "B" licensee or permittee, for placement inside the premises, signs, clocks or menu boards with an aggregate value of not more than \$150. If a gift of any item



White, Welter & Schilling, LLP
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October 21, 1998

Mr. Tom Sykora
State Representative
PO Box 8953
Madison, WI 53708-8953

Post-It™ Fax Note	7671	Date	12-14	# of Pages	1
To	Tom Sykora	From	H. White's office		
Co./Dept.		Co.			
Phone #		Phone #	715-831-9565		
Fax #	608-282-3667	Fax #			

Re: **Bullfrog Fish Farm**
Wis. Statute 125.07 (3)(a)(5)

Dear Mr. Sykora:

As I have discussed with your aide, I've been asked by Herby Radmann, Bullfrog Fish Farm, to help him in changing the state law regarding the sale of alcoholic beverages. As I believe you are aware, Mr. Radmann would allow his patrons not only to buy alcohol, but also to take the alcohol outdoors with them while they enjoy the recreational services he provides. At present it is my understanding that if he allows this to happen, he may be in violation of various state statutes, not the least of which is §125.07. I would propose to remove that impediment by revising §125.07 (3)(a)(5) as follows:

5. Ski chalets, golf courses and golf clubhouses, racetracks licensed under ch.562, curling clubs, private soccer clubs, ~~and private tennis clubs,~~ and certified fish farms providing recreational fishing.

(additions underlined, deletions lined out)

If I understand correctly, this sub-paragraph provides for exceptions to the normal rule which imposes penalties upon individuals who allow underage persons not accompanied by their parents, guardians, or spouses, to be on the premises of a business which has been licensed for the retail sale of alcoholic beverages. It is my belief that by adding this exception to the general rule, we will not only be aiding Mr. Radmann's business as well as others who provide these recreational activities, but also be improving the recreational experience enjoyed by many who frequent these businesses.

As I am not accustomed to drafting legislative changes, I would appreciate it if you could have your staff or other legislative aides review my proposal first, for its procedural correctness and second, to determine if this is an amendment that you would be willing to sponsor on behalf of my client. If you believe there are changes that must be made, please feel free to contact me and I will see that the work is completed as soon as possible. If you have any other comments or questions regarding the intent of this change, please feel free to contact me at your convenience.

Very truly yours,


HOWARD D. WHITE
enclosures



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-13392

PEN.....

cm



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

W.P.O.
please
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line numbers

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AN ACT; relating to: the prohibition against underage persons entering or being on any premises operating under an alcohol beverage license

Analysis by the Legislative Reference Bureau

Under current law, a person who has not reached the legal drinking age (21 years of age), and who is not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued. Current law also provides for various exceptions to this prohibition. One such exception is that a person who has not reached the legal drinking age may enter or be in a bowling center, regularly established athletic field or stadium at which alcohol beverages are sold or ~~on~~ an outdoor volleyball court immediately adjacent to premises licensed to sell alcohol beverages. This bill provides that an unaccompanied person who has not reached the legal drinking age may enter or be on premises licensed to sell alcohol beverages at retail if the premises ~~is~~ a privately owned recreational fishing farm open to the public.



check spacing

are

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

SECTION 1. 125.07 (3) (a) 3r. of the statutes is created to read:

125.07 (3) (a) 3r. Any privately owned business that exists to provide recreational fishing opportunities to the public for a fee.

(END)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/30/99

To: Representative Sykora

Relating to LRB drafting number: LRB-1339

Topic

Liquor licenses for private fish farms

Subject(s)

Beverages - miscellaneous

1. **JACKET** the draft for introduction

Tom Sykora

in the **Senate** ____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Paul E. Nilsen, Legislative Attorney
Telephone: (608) 261-6926