

1999 DRAFTING REQUEST

Bill

Received: 07/21/1999

Received By: nilsepe

Wanted: As time permits

Identical to LRB:

For: Mary Hubler (608) 266-2519

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 license quota affected by annexation or detachment

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 07/21/1999	wjackson 07/26/1999		_____			
/1			jfrantze 07/28/1999	_____	lrb_docadmin 07/28/1999	lrb_docadmin 09/09/1999	

FE Sent For:

<END>

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1?	nilsepe	1-7-23-99 King	J 7/27	J 7/27 me			

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<END>



Joe Thrasher  
Timothy M. Doyle  
James A. Polish  
Theodore A. Franti  
Larry Schifano  
Willem J. Nuorklander

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June 18, 1999

Via Facsimile

Hon. Mary Hubler  
Wisconsin State Assembly  
75th District

Attn: Terry

**RE: Chapter 125**

The 1997-98 Statutes revised and recreated Chapter 125, and specifically, changed the section on "Class B" quotas. Unfortunately, the 1997-98 revision did not include language contained in previous versions of the law, last found at § 125.51(4)(c), 1995-96 Stats., which provides:

If territory containing premises covered by a license is annexed to the municipality and if the municipality's quota would not otherwise allow licenses for the premises, the quota shall be increased to include a license for each premises in the annexed territory.

Section 125.51(4)(d) of the previous laws provided that, in the case of detachment, the quota would be decreased by the number of premises covered by licenses existing in the detached territory, subject to the general quota rules then in effect.

I currently represent a client which is interested in filing a petition for annexation, but is reluctant to do so because of concerns over his liquor license. The reason for annexation has to do with a defective sewage system which can only be brought up to current code by connecting to existing municipal sewage service or by the creation of a town sanitary district. Annexation provides the simple means of correcting the situation, but the liquor license situation is particularly problematic.

How long would it take to amend Chapter 125 to provide for an increase in a municipality's quota upon annexation?

10

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State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3309/1

PEN...:K...  
*[Handwritten signature]*

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

*Gen  
ch+*

AN ACT relating to: the effect of annexation or detachment of territory on a municipality's quota of "Class B" intoxicating liquor licenses.

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*Analysis by the Legislative Reference Bureau*

Current law prohibits a person from selling alcohol beverages at retail to a consumer unless the seller possesses a license or permit authorizing the sale. A "Class B" license authorizes the sale of intoxicating liquor at retail for consumption on the premises where sold and is issued for specific fixed premises. Current law imposes a quota on the number of "Class B" licenses that a municipality may issue. The quota is increased based on population increases; one new license is authorized for each 500 population increase.

This bill modifies the number of "Class B" licenses that a municipality may issue based on annexation or detachment of territory containing premises for which a "Class B" license is issued. If a municipality that has reached its quota annexes territory containing premises for which a "Class B" license is issued, the annexing municipality's quota is increased by the number of annexed "Class B" licenses. The population gained by annexation is also counted as a population increase for purposes of increasing the annexing municipality's quota. Conversely, the quota of a municipality from which territory has been detached by annexation is reduced by the number of detached "Class B" premises, unless the reduction would leave the

✓  
municipality with less than one "Class B" license per 500 population or with less than one "Class B" license.

---

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

  
~~(SIGNED)~~



SEC. #. CR; 125.51 (4) (c) and (d) 125.51 (4)

WPO: text not retrievable

ALCOHOL BEVERAGES 125.51

here sold, but does not authorize the sale of fermented malt beverages or any intoxicating liquor other than wine.

(b) In all municipalities electing by ordinance to come under this paragraph, a retail "Class B" license authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold and also authorizes the sale of intoxicating liquor in the original package or container, in multiples not to exceed 4 glasses at any one time, and to be consumed off the premises where sold. Wine, however, may be sold for consumption off the premises in the original package or otherwise in any quantity. This paragraph does not apply to a winery that has been issued a "Class B" license. Paragraph (am) applies to all wineries that have been issued a "Class B" license.

(bm) Notwithstanding pars. (a) and (b) and s. 125.04 (3) (a) 3 and (9), a "Class B" license authorizes a person operating a hotel to furnish a registered guest who has attained the legal drinking age with a selection of intoxicating liquor in the guest's room which is not part of the "Class B" premises. Intoxicating liquor furnished under this paragraph shall be furnished in original packages or containers and stored in a cabinet, refrigerator or other secure storage place. The cabinet, refrigerator or other secure storage place must be capable of being locked. The cabinet, refrigerator or other secure storage place shall be locked, or the intoxicating liquor shall be removed from the room, when the room is not occupied and when intoxicating liquor is not being furnished under this paragraph. A key for the lock shall be supplied to a guest who has attained the legal drinking age upon request at check-in. The hotel shall prominently display a price list of the intoxicating liquor in the hotel room. Intoxicating liquor may be furnished at the time the guest occupies the room, but for purposes of this chapter, the sale of intoxicating liquor furnished under this paragraph is considered to occur at the time and place that the guest pays for the intoxicating liquor. Notwithstanding s. 125.68 (c), the guest may pay for the intoxicating liquor at any time before or after the guest checks out of the hotel. An individual who stocks or accepts payment for alcohol beverages under this paragraph shall be the licensee, the agent named in the license if the licensee is a corporation or limited liability company or the holder of a manager's or operator's license or be supervised by one of those individuals.

(c) Except as provided under s. 125.69, a "Class B" license may be issued to any person qualified under s. 125.04 (5), except a person acting as an agent for or in the employ of another.

(d) "Class B" licenses shall particularly describe the premises for which issued and are not transferable, except as provided in s. 125.04 (12).

(dm) A municipality may issue a "Class B" license authorizing the retail sale of intoxicating liquor on a railroad car while the railroad car is standing in a specified location in the municipality.

(e) The annual fee for a "Class B" license shall be determined by the municipal governing body and shall be the same for all "Class B" licenses, except that the minimum fee shall be \$50 and the maximum fee shall be \$500. The minimum fee shall not apply to licenses issued to bona fide clubs and lodges situated and incorporated in the state for at least 6 years.

(f) A "Class B" license may be issued only to a holder of a retail "Class B" license to sell fermented malt beverages unless the "Class B" license is the kind of "Class B" license specified under s. 125.04 (am).

(3m) RETAIL "CLASS C" LICENSE. (a) In this subsection "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.

(b) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the

prohibits the municipality from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation, a foreign limited liability company or a person acting as agent for or in the employ of another.

(d) A "Class C" license shall particularly describe the premises for which it is issued.

(e) The annual fee for a "Class C" license shall be determined by the municipal governing body issuing the license. The fee shall not exceed \$100 and shall be the same for all "Class C" licenses.

(4) QUOTAS ON "CLASS B" LICENSES. (a) In this subsection:

1. "License" means a retail "Class B" license issued under sub. (3) but does not include a "Class B" license issued to wineries under sub. (3) (am).

2. "Population" means the number of inhabitants in the previous year determined by the department of administration under s. 16.96 (2) for purposes of revenue sharing distribution.

3. "Quota" means the number of licenses which a municipality may grant or issue.

(b) Except as provided in pars. (c) and (d), the quota of each municipality is the number of licenses issued in good faith by the municipality under s. 176.05 (21) (h), 1975 stats., plus whichever of the following is the largest:

1. One license per 500 population or fraction thereof.

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

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

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

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

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

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

(f) Notwithstanding s. 125.04 (12), a "Class B" license issued by the municipality may be renewed by the municipality or may not issue of licenses is less than the quota.

(g) Notwithstanding s. 125.04 (12), a municipality may, by a three-fourths vote of its members, issue a license to any person engaged in the business of operating a restaurant, provided that the restaurant was built during the term of statehood and operating the place as a restaurant.

(h) Notwithstanding the quota of a municipality, its governing body may, by a three-fourths vote of its members, issue a license to any restaurant existing on August 7, 1977, with a museum having permanent exhibition space open to the public at least 3 times the area of the restaurant, whether or not the museum existed on August 7, 1977.

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

TYPED READ

or reserve "Class B" license

**INITIAL APPLICABILITY**

- In the component bar:  
 For the action phrase, execute: ..... create → action: → \*NS: → inappl  
 For the budget action phrase, execute: ..... create → action: → \*NS: → 93XX  
 For the text, execute: ..... create → text: → \*NS: → inappl
- Nonstatutory subunits are numbered automatically if "( #1 )", "(#2)", etc., is filled in. Below, for the budget, fill in the 9300 department code; and fill in "\_\_\_" or "( )" only if a "frozen" number is needed.

**SECTION #**   93   **Initial applicability; .....**

( #1 ) (    ) .....

The treatment of sections ..

of the statutes

first applies to .....

- In the component bar:  
 For the action phrase, execute: ..... create → action: → \*NS: → inappl  
 For the text, execute: ..... create → text: → \*NS: → inapplA
- Nonstatutory subunits are numbered automatically if "( #1 )", "(#2)", etc., is filled in. Below, fill in "\_\_\_" or "( )" only if a "frozen" number is needed.

**SECTION #**      **Initial applicability; .....**

*(#1)* This act first applies to *territory annexed or detached on the effective date of this section subsection.*

*stat*

*(END)*

100  
100  
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100  
100



**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:** 07/28/1999

**To:** Representative Hubler

**Relating to LRB drafting number:** LRB-3309

**Topic**

Liquor license quota affected by annexation or detachment

**Subject(s)**

Beverages - miscellaneous

1. **JACKET** the draft for introduction

Hubler

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

