

1999 DRAFTING REQUEST

Bill

Received: **07/19/1999**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Rick Skindrud (608) 266-3520**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Beverages - miscellaneous**

Extra Copies: **Russ Whitesel (WLC)**

Pre Topic:

No specific pre topic given

Topic:

Manufacturer's and rectifier's permits; direct sales to consumers of fruit-based liquors

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 08/11/1999	wjackson 08/12/1999		_____			State
/P1	nilsepe 09/07/1999	wjackson 09/08/1999	mclark 08/12/1999	_____	lrb_docadmin 08/12/1999		State
/1			martykr 09/09/1999	_____	lrb_docadmin 09/09/1999	lrb_docadmin 09/14/1999	

FE Sent For:

10/4/99

<END>

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			<i>km 9/8</i>	<i>km 9/8</i>			

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1/?	nilsepe	/pl WLj 8/10	MRC 8/12	MRC/JK 8/12			

FE Sent For:

<END>

Project Summary: The Sugar River Distillery New Glarus, Wisconsin

Lorin K. Toepper, Ph.D.
Destination Development, Inc.
608-827-8938

Need

Wisconsin apple growers face a variety of challenges that continue to threaten their ability to generate sufficient income and maintain their quality of life. Those challenges primarily involve finding profitable markets for both fresh apples and processed apples. For processing apples, about 13% of Wisconsin's total apple crop, a number of forces have recently acted to decrease demand and average price per pound. Those forces include increased competition from low-priced foreign apple-producing countries, increased health concerns over apple juice and cider that has not been pasteurized, new legislation to prohibit the practice of baiting deer with food such as apples, and the lack of a major apple-processing plant in the state that produces cider, juice, canned apples, frozen apples, and even apple sauce. As a result of forces such as these, the average price per pound for Wisconsin processing apples has fallen from \$0.85 per pound in 1997 to about \$0.05 per pound in 1998.

New Glarus, already positioned within Wisconsin as a unique tourism destination with European-based history and culture, attracts many individual and group tourists. Currently, New Glarus' tourism appeal includes its many festivals and special events (Polkafest, Volksfest, Heidi Festival, Wilhelm Tell Festival, and Octoberfest); shopping at specialty stores; restaurants serving Swiss and German foods; as well as attractions such as the Chalet of the Golden Fleece museum, the Swiss Village Museum, the Sugar River Bike Trail, Swiss Valley Apple Orchard, the New Glarus Brewing Company, and the Swiss-style architecture that is predominant within the village's center. As tourism destinations continue to emerge throughout Wisconsin and the Midwest, New Glarus must continually strengthen its tourism position by increasing the drawing power of the destination and adding more high-quality tourism attractions (such as the planned Swiss American Museum).

Objectives

This project, the Sugar River Distillery, potentially offers Wisconsin apple growers a stable and profitable market for their processing-apples. The Sugar River Distillery would purchase processing-apples from Wisconsin growers, have those apples processed into juice at one or more of the existing processors within the state, ship the juice in tanks from the processors to the proposed New Glarus distillery, ferment that juice to an alcohol level of about 5%, and distill that fermented juice into an apple brandy (in the style of Calvados from Normandy, France). In addition to producing an apple brandy, it is envisioned that the apple-processing plant could potentially produce eau-de-vies (using Wisconsin cherries, cranberries, blueberries, grapes, etc.) and even an apple-based liqueur.

In the first year of the project (July 1, 1999 to June 30, 2000), the goal is to complete a feasibility study of the proposed concept. Assuming the results of the feasibility analysis suggest that the distillery would be financially viable, the goal of the second year of the project (July 1, 2000 to June 30, 2001) is to commence production of eau-de-vies, the apple-based liqueur, and the apple brandy. However, U.S. law requires all

brandy to age for at least two years in oak casks. Therefore, Year 2 of the project will include only the release of the eau-de-vies and the apple liqueur within the marketplace while the apple brandy ages. In Year 3 (July 1, 2001 to June 30, 2002), the goal is to continue production and marketing the resulting apple-based products, including the release of the now mature apple brandy in the fall of 2002.

As a tourism resource, the Sugar River Distillery will add another year-round attraction to the New Glarus destination. The distillery will offer complete tours of its facility and provide its visitors with information about apples, the fermentation of apple juice into wine, the distillation of that wine into brandy, and the aging process of brandy. A limited-use meeting facility will provide group tours and other special events with catered gourmet food service. Of course, a gift shop will provide visitors with ample opportunities to purchase "signature" souvenir items relating to the apple brandy produced at the Sugar River Distillery.

Work Plan Description

The primary work plan elements of Year 1 include: (1) an analysis of the supply of both processing apple growers and apple processing facilities within the state; (2) an analysis of the overall market for apple brandy; (3) an analysis of the legal requirements to establish the proposed distillery in New Glarus; (4) an analysis of U.S. and French competition; (5) an analysis of potential sites for the distillery; (6) development of a facility plan for the distillery; and (7) development of a plan for a demonstration orchard on the site of the distillery. Based upon the outcome of Year 1, subsequent work plans will be developed for Years 2 and 3.

Intended Economic Benefits

Specifically, the project would:

- develop a new market for Wisconsin processing-apples with stable prices;
- add value to the processing-apples grown in Wisconsin through the distillation process;
- create new food products (e.g., apple brandy, apple liqueur, and eau-de-vies such as cherry, cranberry, strawberry, and pear, etc.) out of Wisconsin agricultural crops;
- create or sustain jobs for Wisconsin residents both at the distillery and in apple growing areas;
- diversify the existing processing-apple market in Wisconsin away from cider and the related concerns over pasteurization and competition from foreign-produced apple juice concentrate;
- stimulate new investment in apple farming and processing;
- improve the competitive position of Wisconsin's agricultural industry through a new alcohol distillation facility that can use a variety of fruit to make alcoholic beverages in an economically efficient manner;
- diversify and enhance the existing tourism attraction base within the New Glarus destination;
- create new employment opportunities within New Glarus;
- significantly add to federal, state, and local tax receipts; and
- increase the awareness and exposure of all Wisconsin agricultural products within the global marketplace through additional brand (Something Special from Wisconsin) presence.

Whitesel, Russ

From: Lorin Toepper [toepper@tds.net]
Sent: Tuesday, July 13, 1999 7:27 AM
To: sen.erpenbach@legis.state.wi.us; rep.skinrud@legis.state.wi.us;
russ.whitesel@legis.state.wi.us; alan.colvin@legis.state.wi.us; steve.perala@legis.state.wi.us
Subject: New Glarus Distillery Grant



Sugar.summary.doc

By now, you should have been informed by the Wisconsin DATCP that I did receive an Agricultural Development and Diversification grant to explore the feasibility of establishing a small distillery in New Glarus. I am not sure if the news has been let out into the public yet, so please keep it within your office until the proper time comes.

Just a little refresher:

The proposed distillery would use apples grown in Wisconsin to make the primary product line of apple-based brandy. The brandy will be made in a style very similar to a brandy similar to Cognac, called Calvados, produced in the Normandy region of France.

The market for processing apples (as opposed to table apples) within the state has been hard hit by foreign competition (apple juice concentrate allegedly dumped from China), lack of processing plants in Wisconsin to convert into canned apples or other products, fear over unpasteurized apple cider traditionally produced by small farmers, etc. The project should help find a new market for those apples and add significant value to the crop.

In addition, other fruits such as cranberries or cherries can be used to make an "eau-de-vie" (French for "water of life"). While brandies must age for two years (US Law), eau-de-vies do not (Kirsch is a familiar cherry-based eau-de-vie). I intend to explore the production of these eau-de-vies as well (to help with the cash flow while the apple brandy matures in oak).

The grant will fund the following specific activities: research the supply of processing apples within the state (how many and what type of processing apples are grown); research the supply of processing plants within the state (who currently crushes apples into juice; the goal is to crush apples at regional processing plants and then ship the juice to New Glarus); analyze demand for apple brandy in the US; analyze French- and US-based competition; analyze alternative sites for the potential distillery in New Glarus; and develop a facility plan and a demonstration orchard plan at the potential distillery site.

Potential outcomes of the project are jobs, federal and state taxes (sales, income, occupational, license, etc.), an additional "something special from Wisconsin agricultural product," and an anchor tourism attraction for New Glarus.

I have a Ph.D. from University of Rhode Island in Economics; a M.S. in Hospitality and Tourism from UW-Stout, and a B.S. in Economics from UW-Madison. I have served as a university professor for almost 15 years at UW-Stout, Johnson & Wales University (Providence, RI), Clemson University (Clemson, SC), and University of Alaska (Fairbanks, AK). I currently own a tourism development consulting firm (Destination Development Inc) and some of my major clients have been Native American

Tribes and Development Corporations in Alaska and Wisconsin as well as private corporations such as Holland American Westours, non-profit organizations such as the Green Bay Area Visitors and Convention Bureau, and governments such as the Wisconsin Department of Tourism.

Lorin Toepper, Ph.D.
Sugar River Distillery Inc.
P.O. Box 970
New Glarus, WI 53574
608-527-3501
608-527-3502 (fax)
toepper@tds.net



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3299/7

PEN.../.....

WLJ

PI

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

d-note

gen
v
cht

AN ACT relating to: sales of fruit-based intoxicating liquor for consumption on the premises where manufactured or rectified.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. A complete analysis will be provided in a later version.

FE-5

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

SECTION 1. 125.52 (1) of the statutes is renumbered 125.52 (1) (a) and amended to read:

125.52 (1) AUTHORIZED ACTIVITIES. (a) The department shall issue manufacturers' and rectifiers' permits which authorize the manufacture or rectification, respectively, of intoxicating liquor on the premises covered by the permit. A person holding a manufacturer's or rectifier's permit may manufacture, bottle or wholesale wine, pursuant to the terms of the permit, without procuring a winery permit.

(b) 1. A manufacturer’s or rectifier’s permit entitles the permittee to sell intoxicating liquor from the premises described in the permit. Holders of rectifiers’ permits may sell intoxicating liquor rectified by the permittee to retailers without any other permit. ~~No~~ Except as provided in subd. 2., no sales may be made for consumption on the premises of the permittee.

3. Possession of a permit under this section does not authorize the permittee to sell tax-free intoxicating liquor and wines brought into this state under s. 139.03 (5).

History: 1981 c. 79; 1985 a. 302; 1989 a. 253; 1991 a. 39; 1993 a. 112, 759, 491; 1995 a. 27.

SECTION 2. 125.52 (1) (b) 2. of the statutes is created to read:

125.52 (1) (b) 2. A manufacturer’s or rectifier’s permit authorizes the retail sale of intoxicating liquor that is manufactured or rectified on the premises and exclusively from fermented fruit juice. The department may prescribe additional regulations for the sale of intoxicating liquor under this subdivision, if the additional regulations do not conflict with the requirements applicable to holders of “Class B” licenses.

SECTION 3. 125.68 (2) of the statutes is amended to read:

125.68 (2) OPERATORS’ LICENSES; “CLASS A”, “CLASS B” OR “CLASS C” PREMISES. Except as provided under s. 125.07 (3) (a) 10., no premises operated under a “Class A” or “Class C” license or under a “Class B” license or permit may be open for business, and no person who holds a manufacturer’s or rectifier’s permit may allow the sale of intoxicating liquor on the manufacturing or rectifying premises as provided in s. 125.52 (1) (b) 2., unless there is upon the premises either 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 selling or serving any intoxicating liquor to customers. An operator's license issued in respect to a vessel under s. 125.51 (5) (c) is valid outside the municipality that issues it. For the purpose of this subsection, any person holding a manager's license issued 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 or sell alcohol beverages in any place operated under a "Class A" or "Class C" license or under a "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 or agent or a person holding an operator's license, who is on the premises at the time of the service.

History: 1981 c. 79, 158, 202; 1983 a. 74; 1983 a. 189 s. 329 (6); 1983 a. 203 s. 47; 1983 a. 349; 1985 a. 28, 221, 317; 1987 a. 27, 121, 399; 1989 a. 30, 253; 1991 a. 28, 39; 1993 a. 27, 112; 1995 a. 27 s. 9126 (19); 1997 a. 283.

(END)

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

LRB-32992fn

PEN.....

WJ

July 26, 1999

P/d

This draft is unusual in that it allows on-premises sales without requiring a "Class B" license. The requirements applicable to holders of "Class B" licenses (hours of operation, etc.) do not apply to persons selling intoxicating liquor under this draft unless those requirements are specifically made applicable or unless the department of revenue prescribes those requirements in the manner provided by this draft.

I recommend this draft be reviewed closely to determine whether the description of the alcohol beverage in this draft ("manufactured or rectified exclusively from fermented fruit juice") is adequate, and to ensure that the lack of specific sales regulation is adequate.

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

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

LRB-3299/P1dn
PEN:wlj:mrc

August 12, 1999

This draft is unusual in that it allows on-premises sales without requiring a "Class B" license. The requirements applicable to holders of "Class B" licenses (hours of operation, etc.) do not apply to persons selling intoxicating liquor under this draft unless those requirements are specifically made applicable or unless the department of revenue prescribes those requirements in the manner provided by this draft.

I recommend this draft be reviewed closely to determine whether the description of the alcohol beverage in this draft ("manufactured or rectified exclusively from fermented fruit juice") is adequate, and to ensure that the lack of specific sales regulation is adequate.

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Legislative Attorney
Phone: (608) 261-6926

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Reger

1 **AN ACT** ~~to renumber and amend~~ 125.52 (1); ~~to amend~~ 125.68 (2); and ~~to create~~
2 125.52 (1) (b) 2. of the statutes; **relating to:** sales of fruit-based intoxicating
3 liquor for consumption on the premises where manufactured or rectified.

Analysis by the Legislative Reference Bureau

insert
A ✓

~~This is a preliminary draft. A complete analysis will be provided in a later version.~~

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

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

4 **SECTION 1.** 125.52 (1) of the statutes is renumbered 125.52 (1) (a) and amended
5 to read:

6 125.52 (1) **AUTHORIZED ACTIVITIES.** (a) The department shall issue
7 manufacturers' and rectifiers' permits which authorize the manufacture or
8 rectification, respectively, of intoxicating liquor on the premises covered by the

1 permit. A person holding a manufacturer's or rectifier's permit may manufacture,
2 bottle or wholesale wine, pursuant to the terms of the permit, without procuring a
3 winery permit.

4 (b) 1. A manufacturer's or rectifier's permit entitles the permittee to sell
5 intoxicating liquor from the premises described in the permit. Holders of rectifiers'
6 permits may sell intoxicating liquor rectified by the permittee to retailers without
7 any other permit. No Except as provided in subd. 2., no sales may be made for
8 consumption on the premises of the permittee.

9 3. Possession of a permit under this section does not authorize the permittee
10 to sell tax-free intoxicating liquor and wines brought into this state under s. 139.03
11 (5).

12 SECTION 2. 125.52 (1) (b) 2. of the statutes is created to read:

13 125.52 (1) (b) 2. A manufacturer's or rectifier's permit authorizes the retail sale
14 of intoxicating liquor that is manufactured or rectified on the premises and
15 exclusively from fermented fruit juice. The department may prescribe additional
16 regulations for the sale of intoxicating liquor under this subdivision, if the additional
17 regulations do not conflict with the requirements applicable to holders of "Class B"
18 licenses.

that is
manufactured
or
rectified

19 SECTION 3. 125.68 (2) of the statutes is amended to read:

20 125.68 (2) OPERATORS' LICENSES; "CLASS A", "CLASS B" OR "CLASS C" PREMISES.

(C5)
AND OTHER

21 Except as provided under s. 125.07 (3) (a) 10., no premises operated under a "Class
22 A" or "Class C" license or under a "Class B" license or permit may be open for
23 business, and no person who holds a manufacturer's or rectifier's permit may allow
24 the sale of intoxicating liquor on the manufacturing or rectifying premises as
25 provided in s. 125.52 (1) (b) 2., unless there is upon the premises either the licensee

1 or permittee, the agent named in the license or permit if the licensee or permittee is
2 a corporation or limited liability company, or some person who has an operator's
3 license and who is responsible for the acts of all persons selling or serving any
4 intoxicating liquor to customers. An operator's license issued in respect to a vessel
5 under s. 125.51 (5) (c) is valid outside the municipality that issues it. For the purpose
6 of this subsection, any person holding a manager's license issued under s. 125.18 or
7 any member of the licensee's or permittee's immediate family who has attained the
8 age of 18 shall be considered the holder of an operator's license. No person, including
9 a member of the licensee's or permittee's immediate family, other than the licensee,
10 permittee or agent may serve or sell alcohol beverages in any place operated under
11 a "Class A" or "Class C" license or under a "Class B" license or permit unless he or
12 she has an operator's license or is at least 18 years of age and is under the immediate
13 supervision of the licensee, permittee or agent or a person holding an operator's
14 license, who is on the premises at the time of the service.

15 (END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3299/lins
PEN.....

Under current law, alcohol beverages are generally distributed to consumers under a three-tier distribution system: the manufacturer may sell only to a wholesaler or rectifier (a person who blends, refines or purifies distilled spirits or wines); the wholesaler or rectifier may sell only to a wholesaler or to a retailer; the retailer may sell only to the consumer. With specific exceptions, no person may sell outside the three-tier system and no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. Specific exceptions allow a brewer to provide beer free of charge, for consumption on the brewery premises, to customers and visitors; allow a brewer to maintain up to two locations on which the brewer may sell beer directly to consumers, for consumption on the premises; and allow a winery to provide taste samples free of charge on winery premises.

This bill creates an exception to allow a manufacturer or rectifier to sell directly to consumers, for consumption on or off the premises where sold, intoxicating liquor that is manufactured or rectified on the premises, if the intoxicating liquor is manufactured or rectified exclusively from fermented fruit juice, such as brandy. Intoxicating liquor made from or containing grain may not be sold under this exception. Like the requirements that apply to the sale of alcohol beverages to be consumed on the premises where sold, this bill requires that the licensed person, or a person possessing an operator's license or manager's license, be on the premises whenever such sales are made. The bill also allows the department of revenue to regulate sales under this exception, but the regulations must be consistent with requirements that apply to "Class B" licensees (persons licensed to sell intoxicating liquor to be consumed on the premises, such as taverns).

(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: 09/09/1999

To: Representative Skindrud

Relating to LRB drafting number: LRB-3299

Topic

Manufacturer's and rectifier's permits; direct sales to consumers of fruit-based liquors

Subject(s)

Beverages - miscellaneous

1. **JACKET** the draft for introduction _____
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