

1999 DRAFTING REQUEST

Bill

Received: **11/11/1999**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Tony Staskunas (608) 266-0620**

By/Representing: **Adrienne**

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:

Penalty for underage possession of alcohol

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>
I?	nilsepe 1 1/12/1999	wjackson 1 1/17/1999		_____			
/1			martykr 1 1/17/1999	_____	lrb-docadmin 1 1/17/1999	lrb-docadmin 12/17/1999	

FE Sent For:

Not Needed

<END>

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1/?	nilsepe	1 WLJ 11/17	<i>[Signature]</i> 11/17	<i>[Signature]</i> 11/17			

FE Sent For:

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3945/?

PEN.....

Handwritten initials and a large scribble.

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Handwritten note in a circle: "gen ch"

1 AN ACT ~~...~~; relating to: underage persons possessing or consuming alcohol
2 beverages and providing a penalty. +that differ

Analysis by the Legislative Reference Bureau

Current law establishes ~~different~~ penalties for an underage person who unlawfully possesses or consumes alcohol beverages based on where the offense is committed. If the offense is committed on premises licensed to sell alcohol beverages, the violator may be required to pay a forfeiture of not less than \$250 nor more than \$500 for a first offense; for a second or subsequent offense committed within one year, the amount of the forfeiture is increased to not less than \$300 nor more than \$1,000, depending on the number of prior offenses within the previous year. If the offense is committed anywhere other than on licensed premises, the penalties are generally lower: a violator may be required to pay a forfeiture of not less than \$100 nor more than \$200 for a first offense; for a second or subsequent offense committed within one year the amount of the forfeiture is increased to not less than \$200 nor more than \$1,000 depending on the number of prior offenses within the previous year. Additional penalties may apply to either offense, including suspension of the violator's operating privilege or required participation in a supervised work program or other community service work.

This bill eliminates the ~~distinction between~~ ^{difference in penalties based on the} locations where offenses of underage persons possessing or consuming alcohol beverages occur. Under the bill, an underage person who unlawfully possesses or consumes alcohol beverages is subject to the penalties that ~~current~~ apply to those offenses committed on premises licensed to sell alcohol beverages, regardless of where the offense is committed: for

a first offense, a forfeiture of not less than \$250 nor more than \$500; for the second offense within one year, a forfeiture of not less than \$300 nor more than \$500; for a third offense within one year, a forfeiture of not less than \$500 nor more than \$750; for a fourth or subsequent offense within one year, a forfeiture of not less than \$750 nor more than \$1,000. Additional penalties may apply to any offense, including suspension of the violator's operating privilege or required participation in a supervised work program or other community service work.

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

1 SECTION 1. 48.24 (2m) (a) 2. ✓ of the statutes is amended to read:

2 **48.24 (2m)** (a) 2. Any child alleged to be in need of protection and services who

3 (3) has at least 2 prior adjudications for a violation of s. 125.07 (4) (a) or 125.07 (4) (b)

4 (4) ^{1A} 1997 stats. 125.085 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms

5 to any of those sections.

History: 1975 c. 430; 1977 c. 354; 1979 c. 300, 331, 355, 359; 1987 a 3 9; 1989 a. 31, 56; 1993 a. 98; 1995 a. 77, 275, 448; 1997 a. 292.

6 SECTION 2. 110.07 (1) (a) 1. 4 of the statutes is amended to read:

7 110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and

8 chs. 166, 194, 218, 341 to 349 and 351, and ss. 23.33, 125.07 (4) (b) (a) 2. ✓, 125.085 (3)

9 (b), 167.31 (2) (b) to (d) and 287.81 and ch. 350 where applicable to highways, or

10 orders or rules issued pursuant thereto.

History: 1971 c. 40,125; 1973 c. 90,146; 1975 c. 297; 1977 c. 29 ss. 1048,1654 (7) (a), (c), 1656 (43); 1977 c. 305 s. 64; 1977 c. 418; 1979 c. 221; 1979 c. 333 s. 5; 1979 c. 361 s. 113; 1981 c. 96 s. 67; 1981 c. 390; 1983 a. 27; 1983 a. 175 s. 33; 1983 a. 191 s. 6; 1985 a. 29, 36, 63, 332; 1987 a. 332 s. 64; 1989 a. 31, 167, 170, 240, 335, 359; 1993 a. 25; 1995 a. 201, 227, 341.

11 SECTION 3. 125.07 (1) (a) 4. ✓ of the statutes is amended to read:

12 125.07 (1) (a) 4. No adult may intentionally encourage or contribute to a

13 violation of sub. (4) (a) ~~or (b)~~.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51,354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112,472; 1995 a. 77,334; 1997 a. 35, 84, 98, 100, 205, 337. ✓

14 SECTION 4. 125.07 (4) (a) 2. of the statutes is amended to read:

1 125.07 (4) (a) 2. Unless accompanied by a parent, guardian or spouse who has
2 attained the legal drinking age, possesses or consumes alcohol beverages ~~on licensed~~
3 premises.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51,354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112,472; 1995 a. 77,334; 1997 a. 35, 84, 98, 100, 205,37

4 **SECTION 5.** 125.07 (4) (b) of the statutes is repealed.

5 **SECTION 6.** 125.07 (4) (c) of the statutes is repealed.

6 **SECTION 7.** 125.07 (4) (cd) of the statutes is amended to read:

7 125.07 (4) (cd) For purposes of par. (bs) ~~or (e)~~, all violations arising out of the
8 same incident or occurrence shall be counted as a single violation.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51,354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112,472; 1995 a. 77,334; 1997 a. 35, 84, 98, 100, 205, 337.

9 **SECTION 8.** 125.07 (4) (cg) 1. of the statutes is amended to read:

10 125.07 (4) (cg) 1. A supervised work program ordered under par. (bs) ~~or (e)~~ shall
11 be administered by the county department under s. 46.215 or 46.22 or by a
12 community agency approved by the court. The court shall set standards for the
13 supervised work program within the budgetary limits established by the county
14 board of supervisors. The supervised work program may provide the person with
15 reasonable compensation reflecting the market value of the work performed or it
16 may consist of uncompensated community service work. Community service work
17 ordered under par. (bs) ~~or (e)~~, other than community service work performed under
18 a supervised work program, shall be administered by a public agency or nonprofit
19 charitable organization approved by the court. The court may use any available
20 resources, including any community service work program, in ordering the person
21 to perform community service work under par. (bs) ~~or (e)~~.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51, 354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112,472; 1995 a. 77,334; 1997 a. 35, 84, 98,

22 **SECTION 9.** 125.07 (4) ^{100, 205, 337} (cm) of the statutes is amended to read:

1 125.07 (4) (cm) When a court revokes or suspends a person's operating privilege
 2 under par. (bs) ~~or (e)~~, the department of transportation may not disclose information
 3 concerning or relating to the revocation or suspension to any person other than a
 4 court, district attorney, county corporation counsel, city, village or town attorney, law
 5 enforcement agency or the person whose operating privilege is revoked or suspended.
 6 A person entitled to receive information under this paragraph may not disclose the
 7 information to any other person or agency.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51, 354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112, 472; 1995 a. 77, 334; 1997 a. 35, 84, 98, 100, 205, 331. J

8 **SECTION 10.** 125.07 (4) (e) 1. of the statutes is amended to read:

9 125.07 (4) (e) 1. In this paragraph, "defendant" means a person found guilty
 10 of violating par. (a) ~~or (b)~~ who is 17, 18, 19 or 20 years of age.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51, 354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112, 472; 1995 a. 77, 334; 1997 a. 35, 84, 98, 100, 205, 337.

11 **SECTION 11.** 125.07 (4) (e) 2. (intro.) of the statutes is amended to read:

12 125.07 (4) (e) 2. (intro.) After ordering a penalty under par. (bs) ~~or (e)~~, the court,
 13 with the agreement of the defendant, may enter an additional order staying the
 14 execution of the penalty order and suspending or modifying the penalty imposed.
 15 The order under this subdivision shall require the defendant to do any of the
 16 following:

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51, 354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112, 412; 1995 a. 77, 334; 1997 a. 35, 84, 98, 100, 205, 337.

17 **SECTION 12.** 125.07 (4) (e) 4. J of the statutes is amended to read:

18 125.07 (4) (e) 4. If the defendant completes the alcohol abuse treatment
 19 program or court-approved alcohol abuse education program, the approved
 20 treatment facility or court-approved alcohol abuse education program shall, with
 21 the written informed consent of the defendant, notify the agency primarily
 22 responsible for providing services to the defendant that the defendant has complied
 23 with the order and the court shall notify the defendant of whether or not the penalty

1 will be reinstated. If the court had ordered the suspension of the defendant's
2 operating privilege under par. (bs) ~~or (e)~~, the court may order the secretary of
3 transportation to reinstate the operating privilege of the defendant if he or she
4 completes the alcohol abuse treatment program or court-approved alcohol abuse
5 education program.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51, 354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112, 472; 1995 a. 77, 334; 1991 a. 35, 84, 98, 100, 205, 337.

6 **SECTION 13.** 125.07 (4) (e) 5. \checkmark of the statutes is amended to read:

7 125.07 (4) (e) 5. If an approved treatment facility or court-approved alcohol
8 abuse education program, with the written informed consent of the defendant,
9 notifies the agency primarily responsible for providing services to the defendant that
10 the defendant is not participating in the program or that the defendant has not
11 satisfactorily completed a recommended alcohol abuse treatment program or an
12 education program, the court shall hold a hearing to determine whether the
13 penalties under par. (bs) ~~or (e)~~ should be imposed.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51, 354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112, 472; 1995 a. 77, 334; 1997 a.

14 **SECTION 14.** 125.09 ^{35, 84, 98, 100, 205, 337.} ~~(2)(d)~~ \checkmark of the statutes is amended to read:

15 125.09 (2) (d) A person who violates this subsection is subject to a forfeiture of
16 $\textcircled{16}$ not more than \$200, except that ss. 125.07 (4) ~~(e) and~~ (d) and 938.344 provide the
17 penalties applicable to underage persons.

History: 1981 c. 79, 158; 1983 a. 74; 1985 a. 218; 1995 a. 77. \checkmark

18 **SECTION 15.** 125.10 (2) of the statutes is amended to read:

19 125.10 (2) **REGULATION OF UNDERAGE PERSONS.** A municipality or a county may
20 enact an ordinance regulating conduct regulated by s. 125.07 (1) or (4) (a), ~~(b)~~ or (bm),
21 125.085 (3) (b) or 125.09 (2) only if it strictly conforms to the statutory subsection.

1 A county ordinance enacted under this subsection does not apply within any
2 municipality that has enacted or enacts an ordinance under this subsection.

History: 1981 c. 79,202; 1983 a. 74 ss. 19,32; 1985 a. 28 ss. 5,9; 1987 a. 168; 1989 a. 31,253; 1991 a. 39; 1993 a. 208.

3 **SECTION 16.** 343.30 (6) (a) of the statutes is amended to read:

4 343.30 (6) (a) In this subsection, "violation" means a violation of s. 125.07 (4)
5 (a) ~~or (b)~~, 125.085 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms to
6 one of those statutes or a law of a federally recognized American Indian tribe or band
7 in this state that strictly conforms to one of those statutes.

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70,218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979
c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26,32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17,285; 1987 a. 332 s. 64; 1989
a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135,237, 283; s. 13.93 (2) (c).

8 **SECTION 17.** 343.30 (6) (b) (intro.) of the statutes is amended to read:

9 343.30 (6) (b) (intro.) If a court imposes suspension or revocation of a person's
10 operating privilege under s. ~~125.07 (4) (c) or~~ 938.344 (2), (2b) or (2d), the suspension
11 or revocation imposed shall be one of the following:

NOTE: NOTE: Par.(b) (intro.) Is amended eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative
Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84 to read:NOTE:

12 (b) If a court imposes suspension of a person's operating privilege under s. 125.07 (4) (c) or 938.344 (2), (2b) or (2d), the suspension imposed shall be one of the
13 following:

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70,218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979
c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26,32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17,285; 1987 a. 332 s. 64; 1989
a. 7, 31, 105, 121, 336; 1991 a. 39,251, 277,316; 1993 a. 16, 227,317; 1995 a. 27, 77,269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; s. 13.93 (2) (c).

14 **SECTION 18.** 778.25 (1) (a) 1. of the statutes is amended to read:

15 778.25 (1) (a) 1. Under s. 125.07 (4) (a) ~~or (b)~~, 125.085 (3) (b), 125.09 (2), 961.573
16 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming to one
17 of those statutes brought against an adult in circuit court or against a minor in the
18 court assigned to exercise jurisdiction under chs. 48 and 938.

History: 1979 c. 331,359; 1981 c. 79 s. 18; 1981 c. 317; 1983 a. 74 ss. 30, 32; 1983 a. 336; 1985 a. 254; 1987 a.27, 336, 399; 1989 a.31, 121, 179; 1991 a. 134,194; 1995
a. 77, 174, 352, 448; 1997 a. 27, 288, 290.

19 **SECTION 19.** 938.17 (2) (c) of the statutes is amended to read:

20 938.17 (2) (c) The citation procedures described in ch. 800 shall govern
21 proceedings involving juveniles in municipal court, except that this chapter shall
22 govern the taking and holding of a juvenile in custody and par. (cg) shall govern the
23 issuing of a summons to the juvenile's parent, guardian or legal custodian. When a

1 juvenile is before the court assigned to exercise jurisdiction under this chapter and
2 ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal
3 ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued
4 to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal
5 custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15
6 years of age for a violation of s. 125.07 (4) (a) ~~or (b)~~, 125.085 (3) (b), 125.09 (2), 961.573
7 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those statutes
8 shall send a copy to an intake worker under s. 938.24 for informational purposes only.

9 History: 1995 a. 7-352-148; 1997 s. 205.093-58

Section 20: 938.17 (2) (d) ✓ *as affected by 1999 Wisconsin Act 9,*
(d) of the statutes *is amended to read:*

10 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
11 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
12 conforms to s. 125.07 (4) (a) ~~or (b)~~, 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2)
13 or 961.575 (2), the court shall enter any of the dispositional orders permitted under
14 s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture
15 imposed by the municipal court, the court may not impose a jail sentence but may
16 suspend any license issued under ch. 29 for not less than 30 days nor more than 5
17 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for
18 not less than 30 days nor more than 5 years. If a court suspends a license or privilege
19 under this section, the court shall immediately take possession of the applicable
20 license and forward it to the department that issued the license, together with the
21 notice of suspension clearly stating that the suspension is for failure to pay a
22 forfeiture imposed by the court. If the forfeiture is paid during the period of

17

A

operation of a motor vehicle, may

1 suspension, the court shall immediately notify the department, which shall
2 thereupon return the license to the person.

3 History: 1995 a. 77, 352, 448; 1997 a. 205, 239, 258.

SECTION 21. 938.17 (2) (e) of the statutes is amended to read:

4 938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal
5 ordinance that conforms to s. 125.07 (4) (a) ~~or (b)~~, 125.085 (3) (b), 125.09 (2), 961.573
6 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order under s.
7 938.344 that is authorized under par. (cm).

8 History: 1995 a. 77, 352, 448; 1997 a. 205, 239, 258.

SECTION 22. 938.24 (2m) (a) 2. of the statutes is amended to read:

9 938.24 (2m) (a) 2. Any juvenile alleged to be delinquent or in need of protection
10 and services who has at least 2 prior adjudications for a violation of s. 125.07 (4) (a)
11 ~~or, 125.07 (4) (b)~~ ²⁴ 1997 stats., 125.085 (3) (b) or 125.09 (2) or a local ordinance that
12 strictly conforms to any of those sections.

13 History: 1995 a. 77, 275, 352, 448; 1997 a. 181.

SECTION 23. 938.344 (2) (intro.) of the statutes is amended to read:

14 938.344 (2) (intro.) If a court finds a juvenile committed a violation under s.
15 ~~125.07 (4) (b) or~~ 125.09 (2), or a local ordinance that strictly conforms to one of those
16 statutes, the court shall order one or any combination of the following penalties:

17 History: 1995 a. 77, 448; 1997 a. 84.

SECTION 24. Initial applicability

18 (1) This act first applies to alcohol beverages possessed or consumed on July
19 1, 2000, or on the first day of the 4th month beginning after publication, whichever
20 is later.

21 (END)

-3945

Nilsen, Paul

F r o m : Ramirez, Adrienne
Sent: Thursday, November 11, 1999 12:11 PM
To: Nilsen, Paul
Subject: Drafting request

Paul -

You have drafted several alcohol related pieces of legislation for my boss. I believe this request is within your beverage area.

It was pointed out to Tony by some high school students that the fine for possession of alcohol by minors is \$75, while the fine for minors attempting to purchase alcohol is \$250. Tony would like legislation drafted to make both fines consistent at \$250.

Thanks for your help. Let me know if you have any questions about this request.

Adrienne Ramirez
Office of Rep. Staskunas
6-0620

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: 1/17/1999

To: Representative Staskunas

Relating to LRB drafting number: LRB-3945

Topic

Penalty for underage possession of alcohol

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

Not needed