

1999 DRAFTING REQUEST

Bill

Received: **10/07/1999**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **David Hutchison (608) 2664350**

By/Representing: **Mike Taylor**

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:

Cooperative advertsing for intoxicating liquor retailers

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>Reauired</u>
/?	nilsepe 10/26/1999	jgeller 10/28/1999		_____			
/1			martykr 10/28/1999	_____	lrb-docadmin 10/28/1999	lrb-docadmin 02/02/2000	

FE Sent For:

<END>

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For: David Hutchison (608) 266-5350

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I?	nilsepe 10/26/1999	ygeller 10/28/1999		_____			
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I?	nilsepe	1/10/28 jlg	1/10/28	1/10/28			

FE Sent For:

<END>

Cooperative Advertising

9/30/99

125.51 (7)

Mike Taylor; Rep. Hutchinson

allow small retailers to adver

AM; 125.51 (7) ~~advertise~~

delete "advertise"

-PEN

Federal law regulating advertising of wine 27 CFR 4.60 - 4.65

requires ad to state name & address
of responsible advertiser
4.62(a) 5.63(a)

27 CFR 5.61 - 5.66

Nilsen, Paul

From: Schmidt, Dan
Sent: Thursday, September 30, 1999 4:41 PM
To: Nilsen, Paul
Subject: FW: Please send summary

-----Original Message-----

From: Schmidt, Dan
Sent: Wednesday, September 22, 1999 11:43 AM
To: Taylor, Mike
Subject: RE: Please send summary

Mike:

Section 125.51 (7), Stats prevents small liquor stores from engaging in cooperative purchasing or advertising. It states:

“Every holder of a retail license or permit for the sale of intoxicating liquor shall purchase, advertise and sell intoxicating liquor in the holder’s name and under the holder’s license or permit only.”

Section 139.11 (l), of the Statutes requires manufacturers, wholesalers, retailers, etc. to maintain a system of records related to their alcohol sales and purchases. It states that:

“Every person who manufactures, rectifies, distributes, imports, transports, stores, warehouses or sells intoxicating liquor or fermented malt beverages shall keep complete and accurate records of all such liquor or malt beverages purchased, sold, manufactured, rectified, brewed, fermented, distilled, produced, stored, warehoused, imported or transported within this state. Such records shall be of a kind and in the form prescribed by the secretary and shall be safely preserved to ensure accessibility for inspection by the secretary.”

Also, the DOR rules [Tax 8.21 (l)] require retailers to keep all invoices related to the purchase of alcoholic beverages for a period of 2 years.

The combination of these laws allows the DOR to accurately track and audit alcohol shipments and sales from manufacturer to retailer. Altering this system would likely hamper the ability of the DOR to discover liquor which has been stolen, purchased out of state or obtained in any other illegal manner.

If s. 125.51 (7), Stats., was altered to allow retailers to make cooperative purchases with the required documentation, it would likely remove the economic incentive for wholesalers to offer cooperative or volume discounts because of the increased cost associated with creating separate paperwork and making separate deliveries for each retailer involved in the cooperative purchase.

In addition, both state and federal laws prohibit the transfer of alcoholic beverages between retailers. a n s f e r would likely be considered another wholesale sale (incurring more federal taxes). In Wisconsin, transfers are only permitted between retailer if one of the businesses is going out of business and liquidating its inventory. Thus, a retail cooperative would not be permitted to receive deliveries at one location and transfer parts of the inventory to many different locations.

I hope this helps!

Dan

Daniel W. Schmidt
Wisconsin Legislative Council Staff
One East Main Street, Suite 401
P.O. Box 2536
Madison, WI 53701-2536
(608) 267-7251
dan.schmidt@legis.state.wi.us

-----Original Message-----

From: Taylor, Mike
Sent: Wednesday, September 22, 1999 8:53 AM
To: Schmidt, Dan
Subject: Please send summary

Dan:

Could you please e-mail me a brief summary of your thoughts about the liquor issue we discussed yesterday - especially regarding the tax issues with wholesalers.. .

Thanks!

Mike Taylor
Rep. Hutch. Office

Ps. I will be sitting down with Dave late this afternoon.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3719/2
PEN...:~:~:
Jlg

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

d-note

gen
✓
cat

1 AN ACT [✓]; relating to: cooperative advertising by intoxicating liquor retailers.

Analysis by the Legislative Reference Bureau

Current law requires retailers of intoxicating liquor to purchase, advertise and sell intoxicating liquor only under that retailer's name. This requirement effectively prohibits cooperative action between retailers.

This bill eliminates the requirement that an intoxicating liquor retailer advertise only under its own name.

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

2 SECTION 1. 125.51 (7) ^X of the statutes is amended to read:

3 125.51 (7) **SALES** IN NAME OF LICENSEE OR PERMITTEE. Every holder of a retail
4 license or permit for the sale of intoxicating liquor shall purchase, [✓] advertise and sell
5 intoxicating liquor in the holder's name and under the holder's license or permit only.

History: 1981 c. 79, 202, 220; 1983 a. 27 ss. 1489c, 2202 (38); 1983 a. 250, 516; 1985 a. 74, 239, 302; 1987 a. 27, 91, 103, 249, 354, 399; 1989 a. 16, 30, 31, 252, 253, 359; 1991 a. 39; 1993 a. 112; 1995 a. 27; 1997 a. 27, 41, 248, 259.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3719/1dn

PEN...:.....

jlj

October 26, 1999 } new date

(state and federal)

Currently, a retailer who violates s. 125.51 (7) by advertising under another retailer's name may have his or her retail license revoked under s. 125.12. While I am sure there are other penalties that apply for false advertising under another's name, I do not believe that the retailer's license will be at stake. OK?

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

Ⓢ Federal law regulates advertising of wine (27 CFR 4.60-4.65) and intoxicating liquor (27 CFR 5.61-5.66).

Under federal law, an advertisement for wine or intoxicating liquor must contain the name of the responsible advertiser.

See 27 CFR 4.62(a) and 5.63(a).

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3719/1dn

PEN:jlq:km

October 28, 1999

Currently, a retailer who violates s. 125.51 (7) by advertising under another retailer's name may have his or her retail license revoked under s. 125.12. While I am sure there are other penalties (state and federal) that apply for false advertising under another's name, I do not believe that the retailer's license will be at stake. OK?

Federal law regulates advertising of wine (27 CFR 4.60-4.65) and intoxicating liquor (27 CFR 5.61-5.66). Under federal law, an advertisement for wine or intoxicating liquor must contain the name of the responsible advertiser. See 27 CFR 4.62 (a) and 5.63 (a).

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

**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: 10/28/1999

To: Representative Hutchison

Relating to LRB drafting number: LRB-37 19

Topic

Cooperative advertsing for intoxicating liquor retailers

Subject(s)

Beverages - miscellaneous

1. **JACKET** the draft for introduction Paul E. Nilsen
in the **Senate** _____ or the **Assembly** (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 Paul E. Nilsen
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

