

1999 DRAFTING REQUEST

Bill

Received: **10/23/98**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB: **97-5302**

For: **Peggy Rosenzweig (608) 266-2512**

By/Representing: **Bob Conlin**

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

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Beverages - miscellaneous**

Extra Copies:

Topic:

Wine-on-premises permit

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 11/4/98	chanaman 11/20/98		_____			State
/P1	nilsepe 12/15/98	chanaman 12/16/98	lpaasch 11/23/98	_____	gretskl 11/23/98		State
/1			jfrantze 12/16/98	_____	lrb_docadmin 12/16/98	lrb_docadmin 02/5/99	

FE Sent For:

02-10-99

<END>

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/P1		CMM / 1 12/16	lpaasch 11/23/98	_____	gretskl 11/23/98		
FE Sent For:		1 12/16 JLG	12/16	_____			

<END>
12/16

~~LRB-0000~~

-0656

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/?	nilsepe	P1-11-20-98 JLG	11/23 L.P.	11/23 L.P. km	<u>Submitted</u> yes		

FE Sent For:

<END>

LEGISLATIVE REFERENCE BUREAU

August 17, 1998

Want restaurant to get "class B", "class A"
~~or "class C"~~ "class C" if quote is met

Want restaurant to be able to get any order type of license
rest. could get it if it didn't also have wine-on-premises
want on or off premises sales of wine - be both producer & retailer

This draft is pretty rough, but I think it provides a good starting point. Please review it closely. The "gross receipts" test and the prohibition on free taste samples reflect other provisions in current law.

Please also review the analysis. There appears to be no clear prohibition against a restaurant manufacturing and selling its own wine. The "source of supply" language of s. 125.69 (5) and (6) (and the three-tier distribution scheme generally) relies on alcohol beverages "purchased from" or "sold to" another, which doesn't apply well to a producer who sells only to consumers. Existing license types authorize the sale to and purchase from other "tiers". Even s. 125.66, prohibiting sales without a license, requires only the "appropriate" license, which does not appear to exist. Can you identify with greater specificity the provisions of current law that prohibit restaurant-wineries?

check
w/ Roger
Johnson

Before this draft can be introduced, please review the combinations of retail licenses that a restaurant-winery should be allowed to hold. Section 125.69, stats., needs to be amended to allow that desired combination of activities. See s. 125.69 (1) (b) 4., stats.

Most authorizations to sell alcohol at retail is granted by the local authority in which the retail outlet is located. Most authorizations to manufacture alcohol beverages are issued by the department of revenue (DOR). Should restaurant-wineries be treated more like retailers (locally controlled) or manufacturers (state controlled)? See s. 125.05, stats., on local option of becoming a "dry" community. This option may be undercut somewhat by allowing DOR to issue retail permits.

OK
9/5
Drafted

Paul E. Nilsen
Legislative Attorney
261-6926

for occupational tax applicability



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Call Bob Conlin.
re: redrafting
INSTRUCTIONS
6-2298

1. **AN ACT to amend 125.51 (3)(am); and to create 125.535 of the statutes; relating**
2. **to: creating a permit authorizing certain restaurants to manufacture and sell**
3. **wine on the restaurant's premises.**

Analysis by the Legislative Reference Bureau

Current law prohibits any person from selling alcohol beverages (and from manufacturing, brewing or engaging in any other activity for which state law requires a license or permit) unless he or she possesses the appropriate license for that activity. A restaurant may obtain a retail license authorizing the sale of intoxicating liquor, including wine, for consumption on or off the restaurant's premises. However, a retail license authorizes only the sale of intoxicating liquor that was purchased from an authorized, licensed seller.

This bill creates a restaurant-winery permit. The permit authorizes a restaurant to manufacture its own wine and to sell that wine at retail from the premises for consumption on or off the restaurant's premises. The permit is issued by the department of revenue and may be issued only for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and that manufactures less than 5,000 gallons of wine per year. The bill prohibits the permittee from providing free taste samples of wine manufactured on the premises. The bill allows the holder of a restaurant-winery permit to also hold a license or permit for the retail sale of alcohol beverages for consumption on or off the premises where sold.

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:

1 **SECTION 1.** 125.51 (3) (am) of the statutes is amended to read:

2 125.51 (3) (am) A "Class B" license issued to a winery authorizes the sale of
3 wine to be consumed by the glass or in opened containers only on the premises where
4 sold and also authorizes the sale of wine in the original package or container to be
5 consumed off the premises where sold, but does not authorize the sale of fermented
6 malt beverages or any intoxicating liquor other than wine. A restaurant for which
7 a permit is issued under s. 125.535 shall not be considered a winery under this
8 paragraph.

9 **SECTION 2.** 125.535 of the statutes is created to read:

10 **125.535 Restaurant-winery permit.** The department shall issue a
11 restaurant-winery permit authorizing the retail sale of wine manufactured on the
12 premises for consumption on the premises where sold or in an original unopened
13 package, container or bottle for consumption off the premises where sold. The
14 department may issue a restaurant-winery permit to any person who is qualified
15 under s. 125.04 (5) and who holds a valid certificate under s. 73.03 (50). A
16 restaurant-winery permit may be issued only for a restaurant in which the sale of
17 alcohol beverages accounts for less than 50% of gross receipts and that manufactures
18 less than 5,000 gallons of wine per year. No permittee under this section may offer
19 taste samples of wine manufactured on the premises. A restaurant issued a permit
20 under this section shall not be considered a winery for purposes of s. 125.51 (3) (am).

21 (END)

1997-1998 LEGISLATURE
1999-2000

LRB-53027R1
PEN:lp
LRB-0656/P1
cmf
+
Jlg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

insert

D-note

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

proposed
inserts
in
front

1 SECTION 1. 125.51^X (3) (am) of the statutes is amended to read:

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6 malt beverages or any intoxicating liquor other than wine. A restaurant for which
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9 SECTION 2. 125.535^X of the statutes is created to read:

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19 taste samples of wine manufactured on the premises. A restaurant issued a permit^{charge}
20 under this section shall not be considered a winery for purposes of s. 125.51[✓] (3) (am).

21 (insert) → (END)[✓]

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0656/P1ins
PEN.....

SECTION 1. 125.69 (1) (a) of the statutes is renumbered 125.69 (1) (a) ^{1.} and amended to read:

125.69 (1) (a) ^{1.} ~~No~~ ^{2.} ~~Except as provided in subs. 1. and 2.~~ ^{3.} no intoxicating liquor manufacturer, rectifier or wholesaler may hold any direct or indirect interest in any "Class A" license or establishment and no "Class A" licensee may hold any direct or indirect interest in a wholesale permit or establishment, ~~except that a~~.

^{1.} ~~A~~ ^{2.} winery that ~~has~~ ^{3.} holds a permit under s. 125.53 may have an ownership interest in a "Class A" license.

History: 1981 c. 79, 202; 1983 a. 26, 69, 182; 1985 a. 5, 15, 302; 1987 s. 403; 1989 a. 30, 31, 253; 1991 a. 39; 1995 a. 27.

SECTION 2. 125.69 (1) (a) ^{3.} of the statutes is created to read:

125.69 (1) (a) ^{3.} A restaurant that holds a permit under s. 125.535 may hold a "Class A" license.

SECTION 3. 125.69 (1) (b) 1. of the statutes is amended to read:

125.69 (1) (b) 1. Except as provided under subs. 2. to ~~4.~~ ^{5.}, no intoxicating liquor manufacturer, rectifier or wholesaler may hold any direct or indirect interest in any "Class B" license or permit or establishment or "Class C" license or establishment and no "Class B" licensee or permittee or "Class C" licensee may hold any direct or indirect interest in a wholesale permit or establishment.

History: 1981 c. 79, 202; 1983 a. 26, 69, 182; 1985 a. 5, 15, 302; 1987 s. 403; 1989 a. 30, 31, 253; 1991 a. 39; 1995 a. 27.

SECTION 4. 125.69 (1) (b) 5. of the statutes is created to read:

125.69 (1) (b) 5. A restaurant that holds a permit under s. 125.535 may hold a "Class B" [✓] license or permit or a "Class C" license.

(end insert)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0656/P1dn

PEN.....

*cmh * jlg*

November 4, 1998 *3 new date*

Federal tied-house law appears to prohibit a person engaged in the business of producing wine from holding a retail wine license, unless the producer owns the retailer outright. See 27 CFR 6.21.

The federal special (occupational) tax on commercial wine production is set forth in 27 CFR 24.50, with an exception at 27 CFR 24.52. A person considering the commercial production of wine might want to contact the federal Bureau of Alcohol, Tobacco and Firearms to determine whether this tax or exceptions⁸ applies.

Paul E. Nilsen
Legislative Attorney
261-6926

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

LRB-0656/P1dn
PEN:cmh&jlg:lp

November 23, 1998

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261-6926

PA - Please copy

file for 97-5302

and place originals in file

for 99-0656. PEN is
drafter for both.

Thanks,
Paul

11-04-98

1997 DRAFTING REQUEST

Bill

Received: 08/13/98

Received By: nilsepe

Wanted: As time permits

Identical to LRB:

For: Peggy Rosenzweig (608) 266-2512

By/Representing: Bob Conlin, WLC

This file may be shown to any legislator: NO

Drafter: nilsepe

May Contact:

Alt. Drafters:

Subject: Beverages - miscellaneous

Extra Copies: Bob Conlin, WLC

Topic:

Restaurant-winery permit

Instructions:

See Attached

Drafting History:

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/?	nilsepe 08/17/98	jgeller 08/18/98		_____			State
/P1			lpaasch 08/18/98	_____	lrb_docadmin 08/31/98		

FE Sent For:

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/?	nilsepe	PI-8-18-98 JCG	8-18 LP.	8-18 LP. hnh			

FE Sent For:

<END>

copy Bob Conlin
contact: Gene Shaffer in Rosensweig

by August

for Rosensweig - couple weeks

- restaurant - winery
produces wine on premises
wants to sell wine for consumption on-off premises
does not produce 5,000 gal year 125.51(1)

~~might ^{reduce} ~~include~~ 5,000 gal. restriction~~

create new permit for DOK to allow - Amend existing
wine on premises winery permit 125.52
annual permit - std. fee
D-note: municipalities issue?

FL

~~review wineries~~

~~include new permit in quota~~

- DOK issues wine-on-premises permit
may be issued to person with beer or liquor license



State of Wisconsin
1997 - 1998 LEGISLATURE

LRB-53029

PEN:.....

jis
P

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

gen cat

AN ACT ...; relating to: creating a permit authorizing certain restaurants to manufacture and sell wine on the restaurant's premises.

↑ PRINT W/LINE NUMBERS ↓

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PRINT W/LINE NUMBERS

hyphen

hyphen

125.535
a permit is issued under s. ~~125.550~~ shall not be considered a winery under this
paragraph. ✓

History: 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.

(END)

D-note
↓

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

LRB-5302/7dn

PEN:.....

λ
SIS

August 17, 1998

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Before this draft can be introduced, please review the combinations of retail licenses that a restaurant-winery should be allowed to hold. Section 125.69, stats., needs to be amended to allow that desired combination of activities. See s. 125.69 (1) (b) 4., stats.

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Paul E. Nilsen
Legislative Attorney
261-6926



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21

(END)

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FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-5302/P1dn

PEN:jlg:lp

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Legislative Attorney
261-6926

David Hansen, present at meeting to discuss ^{LRB} 12/14/98 with Sen Rosea Zweig's aide, Gene, me, Bob Cohn of Leg Council. We walked through all the features of this draft, modifying only free samples.

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Brewing Group, Inc.
Brewing Innovation Since 1985

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-PEN



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-065601
PENcmh&jlg:lp

stamp



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

d-note

Regen

- 1 **AN ACT to amend 125.51 (3) (am); and to create 125.535 of the statutes; relating**
- 2 **to: creating a permit authorizing certain restaurants to manufacture and sell**
- 3 **wine on the restaurant's premises.**

Analysis by the Legislative Reference Bureau

Current law prohibits any person from selling alcohol beverages (and from manufacturing, brewing or engaging in any other activity for which state law requires a license or permit) unless he or she possesses the appropriate license for that activity. A restaurant may obtain a retail license authorizing the sale of intoxicating liquor, including wine, for consumption on or off the restaurant's premises. However, a retail license authorizes only the sale of intoxicating liquor that was purchased from an authorized, licensed seller.

This bill creates a restaurant-winery permit. The permit authorizes a restaurant to manufacture its own wine and to sell that wine at retail from the premises for consumption on or off the restaurant's premises. The permit is issued by the department of revenue and may be issued only for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and that manufactures less than 5,000 gallons of wine per year. The bill ~~prohibits~~ the permittee ~~from providing~~ free taste samples of wine manufactured on the premises. The bill allows the holder of a restaurant-winery permit also to hold a license or permit for the retail sale of alcohol beverages for consumption on or off the premises where sold.

allows

to provide two-ounce

to persons dining on the premises

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:

1 **SECTION 1.** 125.51 (3) (am) of the statutes is amended to read:

2 125.51 (3) (am) A "Class B" license issued to a winery authorizes the sale of
3 wine to be consumed by the glass or in opened containers only on the premises where
4 sold and also authorizes the sale of wine in the original package or container to be
5 consumed off the premises where sold, but does not authorize the sale of fermented
6 malt beverages or any intoxicating liquor other than wine. A restaurant for which
7 a permit is issued under s. 125.535 shall not be considered a winery under this
8 paragraph.

9 **SECTION 2.** 125.535 of the statutes is created to read:

10 **125.535 Restaurant-winery permit.** The department shall issue a
11 restaurant-winery permit authorizing the retail sale of wine manufactured on the
12 premises for consumption on the premises where sold or in an original unopened
13 package or container for consumption off the premises where sold. The department
14 may issue a restaurant-winery permit to any person who is qualified under s. 125.04
15 (5) and who holds a valid certificate under s. 73.03 (50). A restaurant-winery permit
16 may be issued only for a restaurant in which the sale of alcohol beverages accounts
17 for less than 50% of gross receipts and that manufactures less than 5,000 gallons of
18 wine per year. ~~The~~ ^{The} permittee ~~under this section~~ may offer, free of charge, ^{two- fluid-} taste ^{ounce}
19 samples of wine manufactured on the premises. A restaurant issued a permit under
20 this section shall not be considered a winery for purposes of s. 125.51 (3) (am).

+ persons dining on the premises

1 **SECTION 3.** 125.69 (1) (a) of the statutes is renumbered 125.69 (1) (a) 1. and
2 amended to read:

3 125.69 (1) (a) 1. ~~No~~ Except as provided in subds. 2. and 3., no intoxicating liquor
4 manufacturer, rectifier or wholesaler may hold any direct or indirect interest in any
5 "Class A" license or establishment and no "Class A" licensee may hold any direct or
6 indirect interest in a wholesale permit or establishment, ~~except that a.~~

7 2. A winery that has holds a permit under s. 125.53 may have an ownership
8 interest in a "Class A" license.

9 **SECTION 4.** 125.69 (1) (a) 3. of the statutes is created to read:

10 125.69 (1) (a) 3. A restaurant that holds a permit under s. 125.535 may hold
11 a "Class A" license.

12 **SECTION 5.** 125.69 (1) (b) 1. of the statutes is amended to read:

13 125.69 (1) (b) 1. Except as provided under subds. 2. to 4. 5., no intoxicating
14 liquor manufacturer, rectifier or wholesaler may hold any direct or indirect interest
15 in any "Class B" license or permit or establishment or "Class C" license or
16 establishment and no "Class B" licensee or permittee or "Class C" licensee may hold
17 any direct or indirect interest in a wholesale permit or establishment.

18 **SECTION 6.** 125.69 (1) (b) 5. of the statutes is created to read:

19 125.69 (1) (b) 5. A restaurant that holds a permit under s. 125.535 may hold
20 a "Class B" license or permit or a "Class C" license.

21

(END)

d-note
↓

-0656/1dn
cmw

Senator Rosenzweig:

¶ This draft ~~is~~ allows the permittee to provide free 2-ounce taste samples to customers, but does not ~~set~~ limit the number of samples that may be provided (to an individual customer or to all customers considered together).

-PEN

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0656/1dn
PEN:cmh:jf

December 16, 1998

Senator Rosenzweig:

This draft allows the permittee to provide free 2-ounce taste samples to customers, but does not limit the number of samples that may be provided (to an individual customer or to all customers considered together).

Paul E. Nilsen
Legislative Attorney
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: 12/16/98

To: Senator Rosenzweig

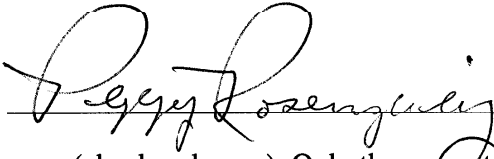
Relating to LRB drafting number: LRB-0656

Topic

Wine-on-premises permit

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