

1999 DRAFTING REQUEST

Bill

Received: **01/26/99**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Jim Baumgart (608) 266-2056**

By/Representing: **Pat**

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

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Beverages - miscellaneous**

Extra Copies:

Topic:

Outdoor advertising of liquor

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 01/26/99	wjackson 01/26/99		_____			State
/1			lpaasch 01/26/99	_____	lrb_docadmin 01/26/99	lrb_docadmin 01/27/99	

FE Sent For:

G 02-16-99

<END>

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1/26	nilsepe	1 1/26 WLj 1 1/26 jLg	1/26 LP	1/26 LP km			

FE Sent For:

<END>

Pat + Jen Brumgar AB J&J Advertising & Signs -2011

M.K.

WJ & JG
- 2011/1

~~1997 ASSEMBLY BILL 383~~

1999 Bill

(note)

May 22, 1997 - Introduced by Representatives BAUMGART and MORRIS-TATUM.
Referred to Committee on Small Business and Economic Development.

REGEN

1 AN ACT to create 84.30 (5) (e) and 84.30 (5m) of the statutes; relating to: outdoor
2 advertising of intoxicating liquor.

Analysis by the Legislative Reference Bureau

Under current law, outdoor advertising signs ^{that} which are located along interstates and certain other highways and ^{that} which advertise activities conducted on the property on which the signs are located are subject to certain restrictions as to size, number and location. The department of transportation (DOT) is required to pay just compensation whenever DOT relocates or removes any lawful outdoor advertising sign.

This bill prohibits the advertising of intoxicating liquor on signs visible from interstates and certain other highways, unless the sign is not larger than 20 square feet in area, is attached to or within a building in which the advertised intoxicating liquor is sold and is the only sign attached to or within that building advertising that brand of intoxicating liquor. The bill authorizes DOT to remove, without compensation, any sign that violates these restrictions.

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:

3 SECTION 1. 84.30 (5) (e) of the statutes is created to read:

ASSEMBLY BILL 383

SECTION 1

1 84.30 (5) (e) The department shall immediately remove, without
2 compensation, any sign that violates sub. (5m).

3 SECTION 2. 84.30 (5m) of the statutes is created to read:

4 84.30 (5m) PROHIBITED CONTENT. No person may advertise any intoxicating
5 liquor, as defined in s. 125.02 (8), on any sign unless the sign does not exceed 20
6 square feet in area and is attached to or within a building in which the advertised
7 intoxicating liquor is sold. No place of business may display, in a manner visible from
8 the highway at any one time, more than one sign advertising any one brand of
9 intoxicating liquor.

10 SECTION 3. Effective date.

11 (1) This act takes effect on the first day of the 4th month beginning after
12 publication.

13 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

~~LRB-1729/1dn~~

PEN: ~~ldf~~:arm

WJ + JLG
- 2011/1dn

Monday, February 10, 1997

Tues., Jan. 26, 1997

Senator Baumgart:

This bill is identical to 1997 Assembly Bill 383.

"Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press." Article I, section 3, Wisconsin constitution
of the

I have not evaluated this draft against the free speech case law under the U.S. or Wisconsin constitutions. This draft limits advertising of lawful commercial activity, which courts have held is protected free speech. I do not know whether a court will find that this restriction is a permissible, "time, place and manner" regulation or an unconstitutional abridgement of free speech. Also, I do not know how a court would address an argument that this draft is permissible under the XVI amendment to the U.S. Constitution, which courts have held grants states extra latitude in regulating the intoxicating liquor industry. (21st)

The only content-based restriction on lawful commercial activity of which I am aware is a limit on promotional lottery advertising under s. 565.32 (1), stats. These restrictions are authorized by article IV, section 24 (6) (a), of the Wisconsin constitution.

This draft provides no express penalties applicable to a person or place of business that violates the prohibitions created by this draft. In the absence of an expressed penalty, a person who violates any statute may be required to forfeit \$200. Is this all right?

Paul E. Nilsen
Legislative Attorney
261-6926

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

LRB-2011/1dn
PEN:wlj&jlg:lp

January 26, 1999

Senator Baumgart:

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“Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press.” Article I, section 3, of the Wisconsin Constitution.

I have not evaluated this draft against the free speech case law under the U.S. or Wisconsin constitutions. This draft limits advertising of lawful commercial activity, which courts have held is protected free speech. I do not know whether a court will find that this restriction is a permissible, “time, place and manner” regulation or an unconstitutional abridgement of free speech. Also, I do not know how a court would address an argument that this draft is permissible under the 21st Amendment to the U.S. Constitution, which courts have held grants states extra latitude in regulating the intoxicating liquor industry.

The only content-based restriction on lawful commercial activity of which I am aware is a limit on promotional lottery advertising under s. 565.32 (1), *stats.* These restrictions are authorized by article IV, section 24 (6) (a), of the Wisconsin Constitution.

This draft provides no express penalties applicable to a person or place of business that violates the prohibitions created by this draft. In the absence of an expressed penalty, a person who violates any statute may be required to forfeit \$200. Is this all right?

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: 1/26/99

To: Senator Baumgart

Relating to LRB drafting number: LRB-2011

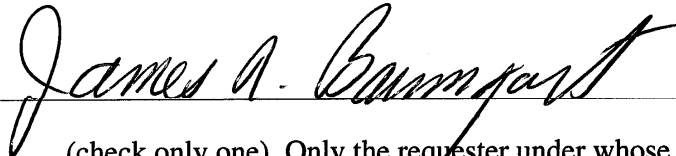
Topic

Outdoor advertising of liquor

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