

1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB361)

Received: 03/01/2000	Received By: nilsepe
Wanted: As time permits	Identical to LRB:
For: Carol Roessler (608) 266-5300	By/Representing:
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:

Small brewers may have unlimited number of beer licenses for restaurants

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 03/01/2000	gilfokm 03/01/2000		_____			
/1	nilsepe 03/03/2000	gilfokm 03/03/2000	jfrantze 03/02/2000	_____	lrb_docadmin 03/02/2000	lrb_docadmin 03/02/2000	
/2		lrb_docadmin 03/14/2000	jfrantze 03/03/2000	_____	lrb_docadmin 03/03/2000	lrb_docadmin 03/03/2000	
/3			martykr 03/14/2000	_____	lrb_docadmin 03/14/2000	lrb_docadmin 03/14/2000	

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/2		<i>B-3-14</i> <i>Kmg</i>	jfrantze 03/03/2000	_____	lrb_docadmin 03/03/2000	lrb_docadmin 03/03/2000	

FE Sent For:

<END>

(rush)

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/?	nilsepe 03/01/2000	gilfokm 03/01/2000		_____			
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FE Sent For:

Handwritten notes: 3/3, 3/3, <END>

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1/?	nilsepe	1-3-1-2000 Kmg	J 03/2	Jb/K 3/2			

FE Sent For:

<END>

10

Brad Sen. Roessler

3/1/00 3pm

Small brews

SB-361

AB-717

} Class R / i

10,000

(8,000)

Underheim

drop 10,000 to 8,000 barrels

must allow for sale for beer manufactured by diff brewer

~ SB350 ~

Call from Brad in Sen. Roessler:

do Senate sub - SB 361 including instructions from Russ Whetsell - AND -

1) dropping 10,000 barrels to 8,000 barrels

2) require restaurants to sell other brewer's beer,

Also, Redirect ASA - AB717 to include be identical to SSA - SB361

Per Kate in Underheim's office: "ok to do"

5004

ASA
1999 ASSEMBLY BILL 717 *LRB 50350/1*

→ SSA - JB 361

LRB 50363/1

February 8, 2000 - Introduced by Representatives ~~UNDERHEIM, GROTHMAN, KEDZIE, OWENS, KAUFERT and WALKER~~, cosponsored by Senators ROESSLER and ELLIS. Referred to ~~Committee on State Affairs~~.

Gen Act

note

1 **AN ACT to renumber and amend 125.31 (1); to amend 125.31 (3) (b); and to**
2 **create 125.02 (1m), 125.31 (1) (a) 1. and 125.31 (1) (a) 3. of the statutes;**
3 **relating to: the number of Class "B" licenses that may be issued to certain**
4 **small brewers.**

Analysis by the Legislative Reference Bureau

Under current law, alcohol beverages are generally distributed from the manufacturer to the consumer 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. A specific exception allows a brewer to provide its fermented malt beverages (beer) free of charge, for consumption on the brewery premises. Another exception allows a brewer to sell beer, for consumption on or off the premises, at not more than two licensed locations: one location on brewery premises and one location on real property owned by the brewery, or its subsidiary or affiliate. A brewer is required to hold a Class "B" license (authorizing the retail sale of beer for consumption on or off the premises where sold) for each such location. This bill allows small brewers to hold Class "B" licenses for any number of qualifying restaurants, in addition to the two other licensed locations. The bill defines a "small brewer" as a brewer that, together with all related brewers, produces

ASSEMBLY BILL 717

less than 10,000 barrels (310,000 U.S. gallons) of beer in one year. The following are all considered related brewers: brewers that are owned by a common majority owner, whether the brewers are corporations, sole proprietorships or partnerships, brewers that are considered with the brewer in question as one taxpayer under federal occupational tax law; brewers that are franchisees or the franchisor of the brewer; and brewers that are franchisees of the brewer's franchisor. A "qualifying restaurant" is a restaurant in which the sale of alcohol beverages accounts for less than 50% of its gross receipts.

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:

SECTION 1. 125.02 (1m) of the statutes is created to read:

125.02 (1m) "Barrel" means 31 U.S. gallons.

SECTION 2. 125.31 (1) of the statutes is renumbered 125.31 (1) (a) 2. and amended to read:

125.31 (1) (a) 2. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may maintain and operate a one place on brewery premises and a one place on real estate owned by the brewer or a subsidiary or affiliate corporation or limited liability company for the sale of fermented malt beverages for which a Class "B" license is required for each place, but ^{plainly} ~~not more than 2 such Class "B" licenses shall be issued~~ ^{except as provided in subd. 3.} to any brewer. ~~This subdivision does not apply to a small brewer.~~

(b) Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may also own, maintain or operate places for the sale of fermented malt beverages at the state fair park or on any county fairgrounds located in this state, in addition to places authorized under par. (a).

(c) Any Class "B" license necessary in connection with this subsection shall be issued to the brewer.

ASSEMBLY BILL 717

and in which is offered for sale fermented malt beverages manufactured by a brewer other than the small brewer who possesses the class "B" license

1 (d) Notwithstanding s. 125.33 (1), a brewer may own the furniture, fixtures,
2 fittings, furnishings and equipment on such premises and shall pay any license fee
3 or tax required for the operation of the premises.

4 SECTION 3. 125.31 (1) (a) 1. of the statutes is created to read:

5 125.31 (1) (a) 1. In this paragraph, "small brewer" means a brewer that,
6 together with the fermented malt beverages manufactured during the same year by
7 all of the following, manufactures less than ~~100,000~~^{8,000} barrels of beer annually:

8 a. All brewers that share membership with the brewer in a controlled group of
9 brewers, as determined under 26 USC 5051 (a) (2) (B).

10 b. All brewers considered with the brewer as one taxpayer under 27 CFR
11 25.111b (b).

12 c. All franchisees, as defined in s. 553.03 (5), of the brewer.

13 d. All franchisees, as defined in s. 553.03 (5), of the brewer's franchisor, as
14 defined in s. 553.03 (6).

15 e. The franchisor, as defined in s. 553.03 (6), of the brewer.

16 SECTION 4. 125.31 (1) (a) 3. of the statutes is created to read:

17 125.31 (1) (a) 3. Notwithstanding ss. 125.29 (2) and 125.33 (1), a small brewer
18 may ~~maintain and operate, for the sale of fermented malt beverages, one place on~~
19 ~~brewery premises, one place on real estate owned by the brewer or a subsidiary or~~
20 ~~affiliate corporation or limited liability company, and any number of restaurants in~~
21 ~~addition~~ which the sale of alcohol beverages accounts for less than 50% of ^{the restaurant's} gross
22 receipts. ~~A Class "B" license is required for each place described in this subdivision.~~

23 SECTION 5. 125.31 (3) (b) of the statutes is amended to read:

No restaurant whose class "B" license is issued to a small brewer under this subdivision may sell fermented malt beverages manufactured by the small brewer unless the restaurant purchased the fermented malt beverages from a wholesaler.

possess a class "B" license for any

in addition to places authorized under subd. 2,

LRB50363/1dn
~~LRB50350/1dn~~

A brewer may hold a wholesaler's license under
s. 125.28, but a person who holds a class "B"
license may not also hold a wholesaler's license.

See s. 125.28 (2)(b) 1. b., stats. A "small brewer"
may have to choose which license to hold.

-PEN

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0363/1dn
PEN:kmg:jf

March 2, 2000

A brewer may hold a wholesaler's license under s. 125.28, but a person who holds a Class "B" license may not also hold a wholesaler's license. See s. 125.28 (2) (b) 1. b., stats. A "small brewer" may have to choose which license to hold.

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

Today 3/3

R

**SENATE SUBSTITUTE AMENDMENT,
TO 1999 SENATE BILL 361**

1 *Gen. Cat.*
AN ACT *to renumber and amend* 125.31 (1); *to amend* 125.31 (3) (b); and *to*
2 *create* 125.02 (1m), 125.31 (1) (a) 1. and 125.31 (1) (a) 3. of the statutes;
3 **relating to:** the number of Class "B" licenses that may be issued to certain
4 small brewers.

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

5 **SECTION 1.** 125.02 (1m) of the statutes is created to read:

6 125.02 (1m) "Barrel" means 31 U.S. gallons.

7 **SECTION 2.** 125.31 (1) of the statutes is renumbered 125.31 (1) (a) 2. and
8 amended to read:

9 125.31 (1) (a) 2. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may
10 maintain and operate a one place on brewery premises and a one place on real estate
11 owned by the brewer or a subsidiary or affiliate corporation or limited liability
12 company for the sale of fermented malt beverages for which a Class "B" license is

1 required for each place, but, except as provided in subd. 3., not more than 2 such
2 Class "B" licenses shall be issued to any brewer.

3 (b) Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may also own,
4 maintain or operate places for the sale of fermented malt beverages at the state fair
5 park or on any county fairgrounds located in this state, in addition to places
6 authorized under par. (a).

7 (c) Any Class "B" license necessary in connection with this subsection shall be
8 issued to the brewer.

9 (d) Notwithstanding s. 125.33 (1), a brewer may own the furniture, fixtures,
10 fittings, furnishings and equipment on such premises and shall pay any license fee
11 or tax required for the operation of the premises.

12 **SECTION 3.** 125.31 (1) (a) 1. of the statutes is created to read:

13 125.31 (1) (a) 1. In this paragraph, "small brewer" means a brewer that,
14 together with the fermented malt beverages manufactured during the same year by
15 all of the following, manufactures less than ~~8,000~~^{4,000} barrels of beer annually:

16 a. All brewers that share membership with the brewer in a controlled group of
17 brewers, as determined under 26 USC 5051 (a) (2) (B).

18 b. All brewers considered with the brewer as one taxpayer under 27 CFR
19 25.111b (b).

20 c. All franchisees, as defined in s. 553.03 (5), of the brewer.

21 d. All franchisees, as defined in s. 553.03 (5), of the brewer's franchisor, as
22 defined in s. 553.03 (6).

23 e. The franchisor, as defined in s. 553.03 (6), of the brewer.

24 **SECTION 4.** 125.31 (1) (a) 3. of the statutes is created to read:

Today
4:30

50363/3

~~ASSEMBLY SUBSTITUTE AMENDMENT,~~
~~TO 1999 ASSEMBLY BILL 717~~

→ SSA → A to SB-361

Gen. Cat.

1 AN ACT to *renumber and amend* 125.31 (1); to *amend* 125.28 (2) (b) 1. b. and
2 c. and 125.31 (3) (b); and to *create* 125.02 (1m), 125.31 (1) (a) 1. and 125.31 (1)
3 (a) 3. of the statutes; **relating to:** the number of Class "B" licenses that may be
4 issued to certain small brewers.

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

5 SECTION 1. 125.02 (1m) of the statutes is created to read:

6 125.02 (1m) "Barrel" means 31 U.S. gallons.

7 SECTION 2. 125.28 (2) (b) 1. b. and c. of the statutes are amended to read:

8 125.28 (2) (b) 1. b. A Class "B" license issued under s. 125.26, except as provided
9 in s. 125.29 (4).

10 c. A Class "B" permit issued under s. 125.27, except as provided in s. 125.29 (4).

11 SECTION 3. 125.31 (1) of the statutes is renumbered 125.31 (1) (a) 2. and
12 amended to read:

1 125.31 (1) (a) 2. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may
2 maintain and operate a one place on brewery premises and a one place on real estate
3 owned by the brewer or a subsidiary or affiliate corporation or limited liability
4 company for the sale of fermented malt beverages for which a Class “B” license is
5 required for each place, but, except as provided in subd. 3., not more than 2 such
6 Class “B” licenses shall be issued to any brewer.

7 **(b)** Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may also own,
8 maintain or operate places for the sale of fermented malt beverages at the state fair
9 park or on any county fairgrounds located in this state, in addition to places
10 authorized under par. (a).

11 **(c)** Any Class “B” license necessary in connection with this subsection shall be
12 issued to the brewer.

13 **(d)** Notwithstanding s. 125.33 (1), a brewer may own the furniture, fixtures,
14 fittings, furnishings and equipment on such premises and shall pay any license fee
15 or tax required for the operation of the premises.

16 **SECTION 4.** 125.31 (1) (a) 1. of the statutes is created to read:

17 125.31 (1) (a) 1. In this paragraph, “small brewer” means a brewer that,
18 together with the fermented malt beverages manufactured during the same year by
19 all of the following, manufactures less than 4,000 barrels of beer annually:

20 a. All brewers that share membership with the brewer in a controlled group of
21 brewers, as determined under 26 USC 5051 (a) (2) (B).

22 b. All brewers considered with the brewer as one taxpayer under 27 CFR
23 25.111b (b).

24 c. All franchisees, as defined in s. 553.03 (5), of the brewer.

1 d. All franchisees, as defined in s. 553.03 (5), of the brewer's franchisor, as
2 defined in s. 553.03 (6).

3 e. The franchisor, as defined in s. 553.03 (6), of the brewer.

4 **SECTION 5.** 125.31 (1) (a) 3. of the statutes is created to read:

5 125.31 (1) (a) 3. Notwithstanding ss. 125.29 (2) and 125.33 (1), in addition to
6 places authorized under subd. 2., a small brewer may possess a Class "B" license for
7 any restaurant in which the sale of alcohol beverages accounts for less than 50% of
8 the restaurant's gross receipts and in which is offered for sale fermented malt
9 beverages manufactured by a brewer other than the small brewer who possesses the
10 Class "B" license. No restaurant whose Class "B" license is issued to a small brewer
11 under this subdivision may sell fermented malt beverages manufactured by the
12 small brewer unless the restaurant purchased the fermented malt beverages from
13 a wholesaler that has no direct or indirect ownership interest in the brewery that
14 manufactured the fermented malt beverages.

15 **SECTION 6.** 125.31 (3) (b) of the statutes is amended to read:

16 125.31 (3) (b) To persons other than licensees and permittees, if the brewer
17 obtains a Class "A" or Class "B" license.

18 (END)