

**1999 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB717)**

Received: 03/01/2000

Received By: nilsepe

Wanted: As time permits

Identical to LRB:

For: Gregg Underheim (608) 266-2254

By/Representing: Russ Whitesel

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	nilsepe 03/13/2000		jfrantze 03/03/2000	_____	lrb_docadmin 03/03/2000	lrb_docadmin 03/03/2000	
/3			hhagen 03/13/2000	_____	lrb_docadmin 03/14/2000	lrb_docadmin 03/14/2000	

**1999 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB717)**

Received: 03/01/2000

Received By: nilsepe

Wanted: As time permits

Identical to LRB:

For: Gregg Underheim (608) 266-2254

By/Representing: Russ Whitesel

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		1/3-3-13-2000 King	jfrantze 03/03/2000	_____	lrb_docadmin 03/03/2000	lrb_docadmin 03/03/2000	

FE Sent For:

<END>

**1999 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB717)**

Received: 03/01/2000

Received By: nilsepe

Wanted: As time permits

Identical to LRB:

For: Gregg Underheim (608) 266-2254

By/Representing: Russ Whitesel

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		12-3-3-2000 kmq	jfrantze 03/02/2000	_____	lrb_docadmin 03/02/2000	lrb_docadmin 03/02/2000	
			763/3	Self 3/3			

FE Sent For:

<END>

**1999 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB717)**

Received: 03/01/2000

Received By: nilsepe

Wanted: As time permits

Identical to LRB:

For: Gregg Underheim (608) 266-2254

By/Representing: Russ Whitesel

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>
1?	nilsepe	1-3-1-2000 img	2/3/2	26/1/10 3/2			

FE Sent For:

<END>

Russ White Sel

AA-  
AB-717

by FRIDAY  
3/5/3

1:30 pm 2/20

2 for Unterkheim as sub =

~~to be in, can get territorial rights as follows~~

Sandy Brewer

any number of class "b" for restaurant

ensure all brews product comes from wholesaler

11  
Brad Sen. Roessler 3/1/00 3pm  
Small brews  
SB-361 } Class B li  
AB-717 }

10,000

(8,000)

Underheim

drop 10,000 to 8,000 barrels

must allow for sale for manufactured by diff. brewer

2 SB 350 2

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 brewed  
beer.

Also, Redraft ASA - AB 717 to include be  
identical to SSA - SB 361

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

8054



ASA -

LRB 50350/1

**1999 ASSEMBLY BILL 717**

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. Asst.*

*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:*

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

2           125.02 (1m) "Barrel" means 31 U.S. gallons.

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

5           125.31 (1) (a) 2. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may  
6 maintain and operate a one place on brewery premises and a one place on real estate  
7 owned by the brewer or a subsidiary or affiliate corporation or limited liability  
8 company for the sale of fermented malt beverages for which a Class "B" license is  
9 required for each place, but <sup>except as provided in subd. 3.</sup> not more than 2 such Class "B" licenses shall be issued  
10 to any brewer. ~~This subdivision does not apply to a small brewer.~~

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

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

ASSEMBLY BILL 717

and in which is offered for sale fermented malt beverages manufactured by a brewer other than the <sup>small</sup> 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 ~~200,000~~ <sup>8,000</sup> 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~~ <sup>possess</sup> ~~restaurant~~ <sup>the restaurant's</sup>  
21 ~~advertis~~ which the sale of alcohol beverages accounts for less than 50% of ~~the~~ 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,



LRB 50350/1 du

: King:

A brewer may hold a wholesaler's<sup>ing</sup> license under  
s. <sup>125</sup> 125.28, but a person who holds a class "B"  
license may not also hold a wholesaler's license.

See s. <sup>8</sup> 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**

LRBs0350/1dn  
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

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

2

Alan C. Cat

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.

***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 ~~1,000~~<sup>4,000</sup> 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:





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBs0350/2  
PEN:kmg:jf

Tues. noon

13

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 1999 ASSEMBLY BILL 717

Insert

Gen. Cat.

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.

*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

↓  
insert  
1-6





**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**ASSEMBLY AMENDMENT,**  
**TO ASSEMBLY SUBSTITUTE AMENDMENT (LRBs0350/2),**  
**TO 1999 ASSEMBLY BILL 717**

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 1, line 6: after that line insert:

3 *insert* SECTION ~~111~~ 125.28 (2) (b) 1. b. and c. of the statutes are amended to read:  
4 125.28 (2) (b) 1. b. A Class "B" license issued under s. 125.26, except as provided  
5 in s. 125.29 (4).

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

History: 1981 c. 79; 1989 a. 31, 253; 1993 a. 112, 259, 378, 491; 1995 a. 225.

7 *insert* 2. Page 3, line 9: after "wholesaler" ~~insert~~ that has no direct or indirect  
8 ownership interest in the brewery that manufactured the fermented malt  
9 beverages