

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3250/1dn
ARG:rs&cmh:pg

September 24, 2001

The attached draft creates a new type of permit, issued by the department of revenue (DOR), for caterers that already hold alcohol beverage licenses issued by local municipalities. The creation of state-issued permits for caterers that "supplement" locally issued alcohol beverage licenses is similar to the structure adopted in the Minnesota statute attached to the request. Catering is a mobile business and the creation of the state-issued caterers permits in the attached draft allows caterers who are issued alcohol beverage licenses to serve alcohol beverages at catered events anywhere in the state. If the draft had been prepared to create locally issued caterers licenses, a caterer in Madison would need to obtain separate catering licenses for catered events in Madison, Middleton, Stoughton, or any other municipality. Is the creation of state-issued caterers permits, rather than locally issued caterers licenses, consistent with your intent?

Municipalities may elect not to issue any alcohol beverage licenses, i.e., to be "dry." See s. 125.05 (1), stats. Under existing law, DOR may issue permits for retail sales of intoxicating liquor for premises within "dry" municipalities0000000000000000. DOR may also issue permits irrespective of local "Class B" license quotas. See s. 125.51 (5), stats. The attached draft allows caterers to sell alcohol beverages at catered events anywhere in the state, including at an event within a "dry" municipality, and exempts caterers permits from "Class B" quotas. Is this consistent with your intent?

With certain exceptions, including for restaurants, intoxicating liquor licenses and permits may not be issued for premises within 300 feet of a school, hospital, or church. See s. 125.68 (3), stats. The attached draft creates an exception for caterers permits, thereby allowing service of intoxicating liquor at catered events within 300 feet of a school, hospital, or church. See proposed s. 125.68 (3) (d). Is this consistent with your intent?

The attached draft also creates an exception to allow underage persons to be present, without an adult parent, on the premises of a catered event where alcohol beverages are served. See proposed s. 125.07 (3) (a) 13. Is this consistent with your intent?

The attached draft also creates an exception to allow fermented malt beverages to be served at a catered event on business premises. See proposed s. 125.32 (3m) (h). Is this consistent with your intent?

The attached draft does not exempt caterers from the requirement that intoxicating liquor sold at a catered event must be purchased from a wholesaler, manufacturer, or rectifier. See s. 125.69 (6), stats. A caterer may not, for example, sell wine at a catered event that is purchased from a retailer such as a liquor or grocery store. Since the attached draft limits caterers permits to persons who already hold other alcohol beverages licenses, caterers presumably already buy from a wholesaler, manufacturer, or rectifier.

Current permits issued by DOR allowing retail sales of intoxicating liquor on water vessels require the permittee to open the premises for inspection by DOR upon request. See s. 125.51 (5) (c) 1., stats. Do you want to include a provision in the attached draft stating, "The premises where a catered event is held shall be open to inspection by the department upon request."? Since the permittee will not be the owner of the premises where the catered event is held, such a provision may have little legal effect and may be considered intrusive of the privacy of the event's host.

The attached draft requires a caterer to give DOR at least 3 days' prior written notice of the date, time, and location of any catered event at which the caterer will sell alcohol beverages. Is this consistent with your intent? In addition to or in lieu of providing notice to DOR, would you like to require the caterer to provide notice to local law enforcement?

The caterers permits created by the attached draft are anomalous under chapter 125, as all other retail licenses and permits are issued for specifically designated premises. The attached draft includes details designed to make this new caterers permit system workable and consistent with other DOR permit provisions. Please review the attached draft carefully to ensure that all provisions are consistent with your intent. I also recommend that DOR review the draft to verify that it meets your needs and does not create undue problems with DOR's administration and enforcement of existing provisions of ch. 125.

Please call if you would like to discuss any of these matters further.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us