

**2001 DRAFTING REQUEST****Senate Amendment (SA-SSA1-SB55)**Received: **06/15/2001**Received By: **jkreye**Wanted: **Soon**

Identical to LRB:

For: **Senate Democratic Caucus**By/Representing: **Keckhaver**This file may be shown to any legislator: **NO**Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Beverages - miscellaneous**Extra Copies: **RCT**Submit via email: **NO**

Requester's email:

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**Pre Topic:**

SDC:.....Keckhaver - CN1055,

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**Topic:**

Alcohol beverages - out - of - state wine shippers

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**Instructions:**

See Attached

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**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	agary 06/16/2001	wjackson 06/16/2001	pgreensl 06/16/2001	_____	lrb_docadmin 06/16/2001		

FE Sent For:

&lt;END&gt;



Adopt the attached amendment to s. 125.58 (4), regarding regulation of the direct shipment of wine.

**AMENDMENT TO 125.58 (4) AND 139.035**

**SECTION 1. 125.58 (4) of the statutes is amended to read as follows:**

**(4) A winery located outside of this state may ship wine into this state as provided under s. 125.68 (10)(bm) if the winery is located in a state which has a reciprocal agreement with this state under s. 139.035. An out-of-state shipper's permit is not required for shipments into this state under this subsection; however, a valid certificate issued under s. 73.03 (50) is required. A copy of the winery's current license from the state of its domicile shall be filed with the registration request. Additionally, any winery located outside of this state which ships wine into this state as provided under s. 125.68 (10) (bm) and any winery located in this state which ships wine out of this state pursuant to s. 139.035 shall file an annual report identifying the product shipped, the quantity shipped, the price of the product shipped and the customer by name, address and birthdate to whom the product was shipped. The annual report shall be due by January 31 for the preceding calendar year.**

**SECTION 2. Section 139.035 of the statutes is amended to read as follows:**

**139.035 Reciprocal Agreements. The department shall negotiate and, if possible, enter into reciprocal agreements with the appropriate officials of other states concerning the shipping of wine to individuals in this state under ss. 125.58 (4) and 125.68 (10) (bm). The purpose of the agreements shall be to permit those shipments while ensuring that the fiscal impact of shipments of wine to individuals in this state from other states, and from this state to individuals in other states, is fair to this state. An agreement under this section may include the provision that this state will tax wine shipped from this state to individuals in another state and the other state will tax wine shipped to individuals in this state. Any shipments made**

pursuant to this section are subject to the registration and reporting requirements of s. 125.58

(4).

SECTION 3. Nonstatutory Provision. The Department of Revenue shall biennially report to the Joint Finance Committee on the amount of wine shipped into and out of the state pursuant to Wis.. Stat. ss. 125.58 (4) and 139.035 and the tax consequences to the state.

GENERAL FUND TAXES -- EXCISE TAXES AND REGULATION  
OF ALCOHOL AND TOBACCO

Mail-Order Sales of Wine

Motion:

Move to modify reciprocal wine shipment provisions as follows:

a. Require any winery located outside this state that ships wine into Wisconsin under the reciprocal wine shipment provisions to have a business tax registration certificate issued by the Department of Revenue (DOR) and require the winery's current license from its state of domicile to be filed with the registration request.

b. Require in-state and out-of-state wineries that ship wine across state lines under the reciprocity provisions to file an annual report with DOR identifying the product shipped, the quantity shipped, the price of the product shipped and the customer by name, address and birth date to whom the product was shipped. Specify that the report would be due by January 31 of each year for shipments during the preceding year. Provide that the first report would be due on January 31, 2003, for shipments occurring in calendar year 2002.

c. Require DOR to biennially report to the Joint Committee on Finance on the amount of wine shipped into and out of Wisconsin under the reciprocity provisions and the tax consequences to the state.

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Note:

Under current law, DOR is required to issue out-of-state shippers' permits, which authorize persons located outside this state to sell or ship intoxicating liquor (including wine) into Wisconsin. In general, intoxicating liquor may not be shipped into Wisconsin unless the entity shipping the liquor has an out-of-state shipper's permit, and liquor may be shipped into this state only to a person holding a manufacturer's, rectifier's, wholesaler's, industrial alcohol or medicinal alcohol permit.

However, wineries located outside of this state may ship wine into Wisconsin if the winery is located in a state that has a reciprocal agreement with this state. An out-of-state shipper's permit is not required. Shipments of wine under the reciprocity provision must be to individuals who are of

the legal drinking age, and the shipping container must be clearly labeled to indicate that the package may not be delivered to an underage person or to an intoxicated person. A person who receives wine under this provision may not sell it or use it for a commercial purpose. No individual may resell the wine or receive more than nine liters of wine annually.

The wine reciprocity agreements are negotiated by DOR with the appropriate officials of other states. The statutes indicate that the purpose of the agreements is to permit limited interstate shipments of wine while ensuring that the fiscal impact of the shipments is fair to this state. Under the reciprocity agreements, Wisconsin taxes wine shipped from in-state wineries to other states and the other states impose their taxes on wine shipped into Wisconsin. Wisconsin currently has entered into reciprocity agreements with California, Oregon and Washington.

This motion would require out-of-state wineries that are shipping wine into Wisconsin under a reciprocity agreement to obtain a business tax registration certificate from DOR and would create additional reporting requirements for participating wineries and the Department.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb1066/1

ARG: /

Please fix request sheet

Sein

turned in 6/16 9:30 am

SDC:.....Keckhaver - CN1055, Alcohol beverages - out of state wine shippers

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

D-Note

substitute amendment

1

At the locations indicated, amend the bill as follows:

Please fix font

2

1. Page 933, line 8: after that line insert:

3

SECTION 2799p. 125.031 of the statutes is created to read:

4

125.031 Department reports. By June 30, 2003, and by June 30 of each

5

odd-numbered year thereafter, the department shall submit to the joint committee

6

on finance a report identifying the amount of wine shipped by wineries located

7

outside of this state to individuals in this state under ss. 125.58 (4) and 125.68 (10)

8

(bm), the amount of wine shipped by permittees under ss. 125.52 and 125.53 from

9

this state to individuals in states that have reciprocal agreements with this state



1 under s. 139.035, and the tax consequences to this state of these shipments into and  
2 out of this state.”.

3 2. Page 939, line 16: after that line insert:

Please  
fix  
font

4 SECTION 2812t. 125.52 (8) of the statutes is created to read:

5 125.52 (8) SALES TO INDIVIDUALS IN OTHER STATES. A permittee under this section  
6 that ships wine from this state to individuals in another state under authorization  
7 of a reciprocal agreement specified in s. 139.035 shall submit a report to the  
8 department, by January 31 of each year, on forms furnished by the department. The  
9 report shall include the identity, quantity, and price of all products shipped during  
10 the previous calendar year from this state to individuals in another state under  
11 authorization of a reciprocal agreement specified in s. 139.035. The report shall also  
12 include the name, address, and birthdate of each person who purchased these  
13 products and each person to whom these products were shipped.

14 SECTION 2812u. 125.53 (3) of the statutes is created to read:

15 125.53 (3) ~~SALES TO INDIVIDUALS IN OTHER STATES.~~ A permittee under this section  
16 that ships wine from this state to individuals in another state under authorization  
17 of a reciprocal agreement specified in s. 139.035 shall submit a report to the  
18 department, by January 31 of each year, on forms furnished by the department. The  
19 report shall include the identity, quantity, and price of all products shipped during  
20 the previous calendar year from this state to individuals in another state under  
21 authorization of a reciprocal agreement specified in s. 139.035. The report shall also  
22 include the name, address, and birthdate of each person who purchased these  
23 products and each person to whom these products were shipped.

24 SECTION 2812v. 125.58 (4) of the statutes is amended to read:

1 125.58 (4) (a) A winery located outside of this state may ship wine into this state  
2 as provided under s. 125.68 (10) (bm) if ~~the~~ all of the following apply:

3 1. The winery is located in a state ~~which~~ <sup>that</sup> has a reciprocal agreement with this  
4 state under s. 139.035.

5 (b) An out-of-state shipper's permit is not required for shipments into this  
6 state under this subsection.

7 SECTION 2812w. 125.58 (4) (a) 2. ~~now~~ of the statutes is created to read:

8 125.58 (4) (a) 2. The winery holds a valid certificate issued under s. 73.03 (50).  
9 # 2812w9. CR; 125.58 (4)(a) 3.

10 125.58(4)(a)3. The winery submits to the department, with any initial application or  
11 renewal for a certificate under s. 73.03 (50), a copy of any current license, permit, or  
12 authorization issued to the winery by any state from which the winery will ship wine  
13 into this state.

14 # 2812wm. CR; 125.58(4)(a) 4.

15 125.58(4)(a) 4. The winery submits a report to the department, by January 31 of each year,  
16 on forms furnished by the department, providing the identity, quantity, and price of  
17 all products shipped into this state during the previous calendar year, along with the  
18 name, address, and birthdate of each person who purchased these products and each  
19 person to whom these products were shipped.

20 SECTION 2812x. 125.68 (10) (bm) of the statutes is amended to read:

21 125.68 (10) (bm) A winery in compliance with the requirements of s. 125.58 (4)  
22 may ship wine into this state under s. 125.58 (4) from a state ~~which~~ <sup>that</sup> has a reciprocal  
23 agreement with this state under s. 139.035 to an individual who is of the legal  
24 drinking age if the shipping container is clearly labeled to indicate that the package  
25 may not be delivered to an underage person or to an intoxicated person. A person  
who receives wine under this paragraph may not sell it or use it for a commercial  
purpose.”.

1

3. Page 1423, line 24: after that line insert:

2

<sup>K</sup>~~(4m)~~ OUT-OF-STATE WINE SHIPPERS. The treatment of sections 125.031, 125.52

3

↓ ↓ ↓ ↓ ↓ and the creation of s. 125.58 (4)(a) 2, 3, and 4. of the statutes  
(8), 125.53 (3), 125.58 (4), and 125.68 (10) (bm) of the statutes takes effect on January 1, 2003.”.

4

5

(END)

D-Note

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

LRBb1066/1dn

ARG:.....

WJ

The attached draft includes a delayed effective date of January 1, 2003. ✓ The draft requires certain wineries to report specific data to the department of revenue (DOR) for the prior calendar year. The affected wineries may not currently track this data. The delayed effective date would put affected wineries on notice that they must track the specified data during the calendar year 2002, and must report the data to DOR no later than January 31, 2003 (and each year thereafter). This is consistent with motion #1450 attached to the request. Is a delayed effective date consistent with your intent?

The attached draft also requires DOR to submit a report to the joint committee on finance, based on the data provided to DOR by wineries, by June 30, 2003, and biennially thereafter. The June 30 date will allow DOR five months in odd-numbered years to review data submitted by the wineries and prepare its report. This date should also be late enough to avoid resource conflicts surrounding DOR's tax filing deadline. Is the June 30 date okay?

Under proposed s. 125.58 (4) (a) 3. ✓ of the attached draft, if an out-of-state winery that ships wine into this state under a reciprocal agreement already holds a business tax registration certificate issued by DOR, the winery need not furnish DOR with a copy of the license, permit, or authorization issued by its home state until it renews its business tax registration certificate with DOR. Is this okay?

Aaron R. Gary  
Legislative Attorney  
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E-mail: aaron.gary@legis.state.wi.us

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

LRBb1066/1dn  
ARG:wlj:pg

June 16, 2001

The attached draft includes a delayed effective date of January 1, 2003. The draft requires certain wineries to report specific data to the department of revenue (DOR) for the prior calendar year. The affected wineries may not currently track this data. The delayed effective date would put affected wineries on notice that they must track the specified data during the calendar year 2002 and must report the data to DOR no later than January 31, 2003 (and each year thereafter). This is consistent with motion #1450 attached to the request. Is a delayed effective date consistent with your intent?

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Under proposed s. 125.58 (4) (a) 3. of the attached draft, if an out-of-state winery that ships wine into this state under a reciprocal agreement already holds a business tax registration certificate issued by DOR, the winery need not furnish DOR with a copy of the license, permit, or authorization issued by its home state until it renews its business tax registration certificate with DOR. Is this okay?

Aaron R. Gary  
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SDC:.....Keckhaver - CN1055, Alcohol beverages - out-of-state wine shippers

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the bill as follows:

2 1. Page 933, line 8: after that line insert:

3 "SECTION 2799p. 125.031 of the statutes is created to read:

4 125.031 Department reports. By June 30, 2003, and by June 30 of each  
5 odd-numbered year thereafter, the department shall submit to the joint committee  
6 on finance a report identifying the amount of wine shipped by wineries located  
7 outside of this state to individuals in this state under ss. 125.58 (4) and 125.68 (10)  
8 (bm), the amount of wine shipped by permittees under ss. 125.52 and 125.53 from  
9 this state to individuals in states that have reciprocal agreements with this state

1 under s. 139.035, and the tax consequences to this state of these shipments into and  
2 out of this state.”.

3 **2.** Page 939, line 16: after that line insert:

4 **“SECTION 2812t.** 125.52 (8) of the statutes is created to read:

5 125.52 (8) SALES TO INDIVIDUALS IN OTHER STATES. A permittee under this section  
6 that ships wine from this state to individuals in another state under authorization  
7 of a reciprocal agreement specified in s. 139.035 shall submit a report to the  
8 department, by January 31 of each year, on forms furnished by the department. The  
9 report shall include the identity, quantity, and price of all products shipped during  
10 the previous calendar year from this state to individuals in another state under  
11 authorization of a reciprocal agreement specified in s. 139.035. The report shall also  
12 include the name, address, and birthdate of each person who purchased these  
13 products and each person to whom these products were shipped.

14 **SECTION 2812u.** 125.53 (3) of the statutes is created to read:

15 125.53 (3) A permittee under this section that ships wine from this state to  
16 individuals in another state under authorization of a reciprocal agreement specified  
17 in s. 139.035 shall submit a report to the department, by January 31 of each year, on  
18 forms furnished by the department. The report shall include the identity, quantity,  
19 and price of all products shipped during the previous calendar year from this state  
20 to individuals in another state under authorization of a reciprocal agreement  
21 specified in s. 139.035. The report shall also include the name, address, and  
22 birthdate of each person who purchased these products and each person to whom  
23 these products were shipped.

24 **SECTION 2812v.** 125.58 (4) of the statutes is amended to read:

1           125.58 (4) (a) A winery located outside of this state may ship wine into this state  
2 as provided under s. 125.68 (10) (bm) if ~~the~~ all of the following apply:

3           1. The winery is located in a state which ~~that~~ has a reciprocal agreement with  
4 this state under s. 139.035.

5           (b) An out-of-state shipper's permit is not required for shipments into this  
6 state under this subsection.

7           **SECTION 2812w.** 125.58 (4) (a) 2. of the statutes is created to read:

8           125.58 (4) (a) 2. The winery holds a valid certificate issued under s. 73.03 (50).

9           **SECTION 2812wg.** 125.58 (4) (a) 3. of the statutes is created to read:

10           125.58 (4) (a) 3. The winery submits to the department, with any initial  
11 application or renewal for a certificate under s. 73.03 (50), a copy of any current  
12 license, permit, or authorization issued to the winery by any state from which the  
13 winery will ship wine into this state.

14           **SECTION 2812wm.** 125.58 (4) (a) 4. of the statutes is created to read:

15           125.58 (4) (a) 4. The winery submits a report to the department, by January  
16 31 of each year, on forms furnished by the department, providing the identity,  
17 quantity, and price of all products shipped into this state during the previous  
18 calendar year, along with the name, address, and birthdate of each person who  
19 purchased these products and each person to whom these products were shipped.

20           **SECTION 2812x.** 125.68 (10) (bm) of the statutes is amended to read:

21           125.68 (10) (bm) A winery in compliance with the requirements of s. 125.58 (4)  
22 may ship wine into this state under s. 125.58 (4) from a state ~~which~~ that has a  
23 reciprocal agreement with this state under s. 139.035 to an individual who is of the  
24 legal drinking age if the shipping container is clearly labeled to indicate that the  
25 package may not be delivered to an underage person or to an intoxicated person. A



1 person who receives wine under this paragraph may not sell it or use it for a  
2 commercial purpose.”.

3 **3.** Page 1423, line 24: after that line insert:

4 “(4k) OUT-OF-STATE WINE SHIPPERS. The treatment of sections 125.031, 125.52  
5 (8), 125.53 (3), 125.58 (4), and 125.68 (10) (bm) of the statutes and the creation of s.  
6 125.58 (4) (a) 2., 3., and 4. of the statutes take effect on January 1, 2003.”.

7 (END)