

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB55)**

Received: **07/19/2001**

Received By: **agary**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Larson**

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:**

LFB:.....Larson -

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**Topic:**

Ownership of restaurants by brewers (item 4)

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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>
/?	agary 07/19/2001	wjackson 07/19/2001		_____			
/1			jfrantze 07/20/2001	_____	lrb_docadmin 07/20/2001		
/2	agary 07/20/2001	wjackson 07/20/2001	haugca 07/20/2001	_____	lrb_docadmin 07/20/2001		

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For:

<END>

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/1		1/2 WLj 7/20	jfrantze 07/20/2001		lrb_docadmin 07/20/2001		

FE Sent For:

CH 7-20  
RS  
CJA 7-20

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/?	agary		8/1/00	Self 7/20			

FE Sent For:

<END>

LRB b2153

7/19/01 Telephone conference with Drew Larson at LFB. Need to add phrase “, directly or indirectly,” after word “possess” on page 819, line 24 of ARC superamendment, AA1 to ASA1 to SB55.

ARG

**Gary, Aaron**

**From:** Gary, Aaron  
**Sent:** Thursday, July 19, 2001 4:56 PM  
**To:** Larson, Drew  
**Subject:** brewers

Drew,

As we discussed, the idea of a "direct or indirect interest" is not novel, but it has not been applied in the context of brewers. For example, there are specific provisions limiting ownership interests among various licensees or permittees in the context of intoxicating liquor. Section 125.69 (1) (a) provides that "[n]o intoxicating liquor manufacturer ... may hold any direct or indirect interest in any "Class A" license or establishment ...." Par. (b) parallels this language re "Class B" licenses or establishments.

Under s. 125.26(2)(b)1., "Class B" licenses may not be issued to brewers, except as provided in s. 125.31. Under s. 125.26(2)(b)2.a., a "Class B" license may not be issued to a person holding a wholesaler's license or to a person who has a direct or indirect interest in a premises operating under a wholesaler's license."

The statutory provisions governing breweries are primarily ss. 125.29 and 125.31. The existing brewery provisions do not contain similar references re "direct or indirect" interest by a brewer in a license or establishment. A clear example is the juxtaposition of s. 125.26(2)(b)1. and 2., where the direct or indirect language is used for wholesalers but not brewers.

The issues I see in adding the "directly or indirectly" language to p. 819, line 24 of the ARC superamendment as we discussed are:

1. The language itself varies from what is customary. That is, the statutes refer to holding or having a direct or indirect interest, not possessing directly or indirectly. Having an "indirect interest" makes more sense than "possessing indirectly".
2. The change creates some inconsistency in the statutory provisions relating to brewers. The inconsistency is most clear if we compare subds. 3. and 4. of s. 125.31(1)(a), which have the same language. A court may have to decide whether the fact that subd. 4. says "possess, directly or indirectly," and subd. 3. simply says "possess" means that small brewers under subd. 3. are entitled to indirectly possess more than 4 "Class B" licenses? At a minimum, if subd. 4. is changed, subd. 3 should be changed in a parallel fashion unless the intent is for the two provisions to be applied differently.

I hope this helps. I will redraft in accordance with the instructions you provided to me today.  
Aaron

Aaron R. Gary  
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*Legislative Reference Bureau*  
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~~ARC:.....Smith AM48 Tied-house provisions - ownership of restaurants~~

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

~~CAUCUS ASSEMBLY~~ <sup>Senate</sup> AMENDMENT  
~~ASSEMBLY~~ <sup>Senate</sup>

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

D-Note

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 935, line 12: after that line insert:
- 3 **"SECTION 2805g.** 125.31 (1) (a) 2. of the statutes is amended to read:
- 4 125.31 (1) (a) 2. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may
- 5 maintain and operate one place on brewery premises and one place on real estate
- 6 owned by the brewer or a subsidiary or affiliate corporation or limited liability
- 7 company for the sale of fermented malt beverages for which a Class "B" license is
- 8 required for each place, but, except as provided in ~~subd.~~ subds. 3. and 4., not more
- 9 than 2 such Class "B" licenses shall be issued to any brewer.
- 10 **SECTION 2805h.** 125.31 (1) (a) 4. of the statutes is created to read:





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

LRBb2197/1dn

ARG:.....

WJ

ATTN: Drew Larson

The attached draft is identical to LRBb1717/1 (prepared for the Assembly Republican Caucus) except that, in accordance with the drafting instructions, it adds the phrase "directly or indirectly" after the term "possess" on page 2, line 2.

As we discussed, the phrase "possess, directly or indirectly, a Class "B" license" is unusual. It would be more customary to add the phrase, "or hold an indirect interest in a Class "B" license" after the phrase "possess a Class "B" license." In addition, adding the "directly or indirectly" language here creates some inconsistency in statutory provisions relating to brewers. At a minimum, I recommend also making the same change to the parallel language of s. 125.31 (1) (a) 3.

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

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

LRBb2197/1dn  
ARG:wlj:jf

July 20, 2001

ATTN: Drew Larson

The attached draft is identical to LRBb1717/1 (prepared for the Assembly Republican Caucus) except that, in accordance with the drafting instructions, it adds the phrase "directly or indirectly" after the term "possess" on page 2, line 2.

As we discussed, the phrase "possess, directly or indirectly, a Class "B" license" is unusual. It would be more customary to add the phrase, "or hold an indirect interest in a Class "B" license" after the phrase "possess a Class "B" license." In addition, adding the "directly or indirectly" language here creates some inconsistency in statutory provisions relating to brewers. At a minimum, I recommend also making the same change to the parallel language of s. 125.31 (1) (a) 3.

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LRB b2197

7/20/01 Telephone conference with Drew Larson at LFB. Referring to drafter's note, want change to language indicated in drafter's note re indirect interest. Can sign off on that. But don't make second change – cannot sign off on changing parallel language of subd. 3.

ARG



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb2197/2  
ARG:jld&wlj:jf

RMR

LFB:.....Larson – Ownership of restaurants by brewers (item 4)

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

D-Note

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

2 **1.** Page 935, line 12: after that line insert:

3 **“SECTION 2805g.** 125.31 (1) (a) 2. of the statutes is amended to read:

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

10 **SECTION 2805h.** 125.31 (1) (a) 4. of the statutes is created to read:



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

LRBb2197/2dn

ARG:.....

WLy

ATTN: Drew Larson

The attached draft is identical to LRBb2197/1 except that the phrase "directly or indirectly" on page 2, line 2 of the "/1" draft has been replaced in the attached draft with the phrase "or hold an indirect interest in."

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LRBb2197/2dn  
ARG:wlj:ch

July 20, 2001

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LFB:.....Larson – Ownership of restaurants by brewers (item 4)

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**TO 2001 SENATE BILL 55**

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2           **1.** Page 935, line 12: after that line insert:

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