

**2005 ASSEMBLY BILL 775**

October 20, 2005 – Introduced by Representatives PETTIS, LAMB, MURSAU, MUSSER, HAHN, ALBERS, HUEBSCH, HINES and VAN ROY, cosponsored by Senators HARS DORF, A. LASEE, GROTHMAN, LASSA and JAUCH. Referred to Committee on State Affairs.

1 **AN ACT** *to renumber and amend* 125.28 (1); *to amend* 125.04 (3) (e) 1., 125.04  
2 (3) (f) 1. and 125.30 (1); and *to create* 125.28 (1m) of the statutes; **relating to:**  
3 fermented malt beverages wholesalers.

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***Analysis by the Legislative Reference Bureau***

Current law generally prohibits a person from selling alcohol beverages unless the seller possesses a license or permit authorizing the sale. A beer wholesaler's license authorizes the license holder to sell to retailers or wholesalers, from premises within the issuing municipality, beer in original packages that may not be consumed on or about the wholesaler's premises. However, in the case of a foreign corporation or foreign limited liability company whose wholesale premises is located outside of this state, the wholesaler's license can be issued by the governing body of the municipality in which some part of the wholesaler's business is conducted in this state. A beer wholesaler may not receive beer directly shipped from outside this state unless the shipper holds an out-of-state shipper's permit. All beer shipments to a wholesaler in this state, whether shipped to the wholesaler from inside this state or from outside this state, must be unloaded in and distributed from the wholesaler's warehouse in this state.

This bill authorizes a municipality to issue a beer wholesaler's license to any of the following:

1. A wholesaler that maintains a warehouse within the municipality.
2. A wholesaler that does not maintain a warehouse in this state but that is licensed and maintains a warehouse in an adjoining state that allows Wisconsin

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wholesalers to deliver beer to retailers in that state without warehousing in that state (nonresident wholesaler) if some part of the wholesaler's business is conducted in the municipality. The wholesaler is not required to be a resident of this state.

The bill generally requires that each licensed beer wholesaler own or lease beer warehouse facilities on the wholesaler's licensed premises or on premises for which the wholesaler holds an alcohol beverage warehouse permit. All beer shipments to the wholesaler must be unloaded in and distributed from these warehouse facilities. However, these requirements do not apply to a nonresident wholesaler. Nonresident wholesalers are also not prohibited from receiving, outside this state, beer shipped by a person not holding a Wisconsin out-of-state shipper's permit.

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

1           **SECTION 1.** 125.04 (3) (e) 1. of the statutes is amended to read:

2           125.04 (3) (e) 1. Each application for a license, other than a manager's or  
3 operator's license, shall be sworn to by the applicant. The applicant shall file the  
4 application for a license with the municipal clerk of the intended place of sale, except  
5 that an applicant for a license under s. 125.28 may file the application with the  
6 municipal clerk where any warehouse described in s. 125.28 (1m) (a) is located.

7           **SECTION 2.** 125.04 (3) (f) 1. of the statutes is amended to read:

8           125.04 (3) (f) 1. Except as provided in subds. 2. and 3. and sub. (3) (e) 1., all  
9 applications for licenses to sell alcohol beverages shall be filed with the clerk of the  
10 municipality in which the premises are located at least 15 days prior to the granting  
11 of the license.

12           **SECTION 3.** 125.28 (1) of the statutes is renumbered 125.28 (1) (a) and amended  
13 to read:

14           125.28 (1) (a) ~~Every~~ Subject to par. (b), every municipal governing body may  
15 issue licenses to wholesalers ~~for~~ that maintain any warehouse specified under sub.  
16 (1m) (a) within the municipality authorizing the sale of fermented malt beverages  
17 ~~from premises within the municipality.~~ A wholesaler's license authorizes sales of

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1 fermented malt beverages only in original packages or containers to retailers or  
2 wholesalers, not to be consumed in or about the wholesaler's premises where sold.  
3 ~~In the case of a foreign corporation or foreign limited liability company whose~~  
4 ~~wholesale premises is located outside of this state,~~

5 (b) If a wholesaler does not maintain a warehouse specified under sub. (1m) (a)  
6 in this state but is licensed and maintains a warehouse in an adjoining state that  
7 allows wholesalers licensed in this state to deliver fermented malt beverages to  
8 retailers in the adjoining state without warehousing in that state, the wholesaler's  
9 license shall be issued by the governing body of the municipality in which some part  
10 of the wholesaler's business is conducted in this state. Notwithstanding s. 125.04 (5)  
11 (a) 2. and (c) and (6), the municipal governing body may issue the wholesaler's license  
12 to a wholesaler described in this paragraph who is a natural person and not a  
13 resident of this state or that is a corporation or limited liability company and has not  
14 appointed an agent in this state.

15 (c) No additional license or permit is required for the solicitation of orders for  
16 sale to or by licensed wholesalers.

17 **SECTION 4.** 125.28 (1m) of the statutes is created to read:

18 125.28 **(1m)** (a) Except as provided in par. (b), any person holding a  
19 wholesaler's license under this section shall own or lease warehouse facilities on the  
20 premises described in the wholesaler's license, or on any warehouse premises for  
21 which the wholesaler also holds a permit issued under s. 125.19, that are capable of  
22 warehousing fermented malt beverages. All shipments of fermented malt beverages  
23 to the wholesaler, whether shipped to the wholesaler from inside this state or from  
24 outside this state, shall be unloaded in and distributed from these warehouse  
25 facilities.

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1 (b) This subsection does not apply to a wholesaler issued a wholesaler's license  
2 under sub. (1) (b).

3 **SECTION 5.** 125.30 (1) of the statutes is amended to read:

4 125.30 (1) The department shall issue out-of-state shippers' permits which  
5 authorize the permittee to ship fermented malt beverages only to holders of a  
6 wholesaler's license issued under s. 125.28. No person may receive fermented malt  
7 beverages in this state which have been directly shipped from outside this state by  
8 any person other than the holder of a permit issued under this section. All shipments  
9 of fermented malt beverages to a wholesaler of fermented malt beverages in this  
10 state, whether shipped to the wholesaler from inside this state or from outside this  
11 state, ~~shall be unloaded in and distributed from the wholesaler's warehouse in this~~  
12 ~~state~~ are subject to the provisions of s. 125.28 (1m).

13 **SECTION 6. Initial applicability.**

14 (1) This act first applies to fermented malt beverages wholesalers' licenses  
15 issued on the effective date of this subsection.

16 (END)