

**2005 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB775)**

Received: 12/05/2005

Received By: agary

Wanted: Today

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing: Alan Colvin (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Beverages

Extra Copies:

Submit via email: YES

Requester's email: Rep.Pettis@legis.state.wi.us

Carbon copy (CC:) to: Alan.Colvin@legis.state.wi.us

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**Pre Topic:**

No specific pre topic given

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**Topic:**

beer wholesalers; warehouse in adjoining state

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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<br>12/05/2005 | jdyer<br>12/05/2005 |                        | _____          |                       |                       |                 |
| /1           |                     |                     | jfrantze<br>12/05/2005 | _____          | mbarman<br>12/05/2005 | mbarman<br>12/05/2005 |                 |

FE Sent For:

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /?           | agary          | 1/12/05 jld     | 12/5         | 12/5           |                  |                 |                 |

FE Sent For:

<END>

**Gary, Aaron**

**From:** Gary, Aaron  
**Sent:** Monday, December 05, 2005 12:08 PM  
**To:** Colvin, Alan  
**Subject:** RE: AB 775

Al,

That change looks fine.

I will add the following language, at the spot indicated: "and that further requires that all fermented malt beverages be first unloaded at and distributed from the warehouse of the licensed wholesaler in that state" OK?

I will need the jacket back before I can redraft. Can you send it back?

Thanks. Aaron

Aaron R. Gary  
Legislative Attorney  
Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

*12/5*  
*yes*  
*He v/ Al*  
*doesn't have jacket;*

---

**From:** Colvin, Alan  
**Sent:** Monday, December 05, 2005 11:10 AM  
**To:** Gary, Aaron  
**Subject:** FW: AB 775

Aaron,

Can you address this concern?

---

**From:** Eric Jensen [mailto:ericj@wisbeer.org]  
**Sent:** Friday, December 02, 2005 12:46 PM  
**To:** Colvin, Alan  
**Subject:** RE: AB 775

Al:

Heard from my attorney. Just so you know the background - he is my counterpart in MN and is also a practicing attorney with many years of experience in beer regulatory law. So he knows this situation intimately. He agrees with me that the sub. looks good - but we have one suggestion I'd like to pass along to Aaron. Feel free to forward this message directly to him.

Our goal with AB 787 is to regulate "direct shipping" from brewer-to-retailer so that any brewer wishing to do so has to follow the same set of rules and regulations as independent distributors, and in doing this "reciprocity" provision we want to maintain that as best we can.

12/05/2005

One of the key provisions in AB 787 is what we call the "come to rest" provision which requires that beer be delivered to retailers only from a licensed wholesale warehouse (whether that warehouse is owned by an independent distributor or by a brewer). We cannot regulate behavior of MN companies in MN, but we can place minimum requirements on when "reciprocity" applies in Wisconsin.

Our suggestion would be to add some language in 125.29(1)(b) [which appears in the sub on page 2, lines 3-12]. We'd like to insert the following "and that further requires that all fermented malt beverages must be first unloaded at and distributed from the warehouse of the licensed wholesaler" - it would go right after the word "state" in line 6.

This would basically require then that reciprocity apply only with adjoining states who also have a "come to rest" provision - which MN does - and effectively regulate MN wholesalers without placing any restrictions on those wholesalers. Make sense?

With that change the Sub. is good to go - takes care of the problem in Superior, but does so in a way that works properly with the intent and effect of AB 787.

Let me know if Aaron feels this creates a problem with the sub. And feel free to pass along my mobile phone number to Aaron (445-9077) if he'd like to call me directly.

Thanks for the help.

Eric

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**From:** Colvin, Alan [mailto:Alan.Colvin@legis.state.wi.us]  
**Sent:** Thursday, December 01, 2005 4:16 PM  
**To:** Eric Jensen  
**Subject:** RE: AB 775

Sure, send it to Mike

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**From:** Eric Jensen [mailto:ericj@wisbeer.org]  
**Sent:** Thursday, December 01, 2005 3:25 PM  
**To:** Colvin, Alan  
**Subject:** RE: AB 775

Cool. Just surprised to see it drafted as a Sub rather than simple.

First reaction - I think it looks pretty good. But I have sent it to my attorney to look over so I can give you a final "ok." Should hear from him pretty quickly.

I'm impressed with how quickly Aaron is able to get these things done!

I'll let you know a final ok very fast.

OK if I ship this over to Mike Vaughan since Aaron seems to agree there was a problem that needed to be fixed in light of AB 787?

12/05/2005

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**From:** Colvin, Alan [mailto:Alan.Colvin@legis.state.wi.us]  
**Sent:** Thursday, December 01, 2005 3:22 PM  
**To:** Eric Jensen  
**Subject:** RE: AB 775

I believe it is in response to your email

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**From:** Eric Jensen [mailto:ericj@wisbeer.org]  
**Sent:** Thursday, December 01, 2005 3:13 PM  
**To:** Colvin, Alan  
**Subject:** RE: AB 775

Is this from Aaron to address new inconsistencies created by passage of AB 787? Or is this coming from somewhere else?

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**From:** Colvin, Alan [mailto:Alan.Colvin@legis.state.wi.us]  
**Sent:** Thursday, December 01, 2005 3:10 PM  
**To:** Eric Jensen  
**Cc:** Pettis, Mark; Liedl, Kimberly  
**Subject:** RE: AB 775

Eric,

What do you think of this?

---

# RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: ARC) (Date: 12 / 5 / 05)



Please transfer the drafting file for

2003 LRB \_\_\_\_\_ to the drafting file

for 2005 LRB \_\_\_\_\_

The final version of the 2003 draft and the final Request Sheet will be copied on yellow paper, and returned to the original 2003 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

For research purposes, because the 2003 draft was incorporated into a 2005 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the 2005 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

**--- OR ---**

Please copy the drafting file for

2005 LRB S 0344 / 1 (include the version) and place it in the

drafting file for 2005 LRB S 0392 / 1

For research purposes, because the original 2005 draft was incorporated into another 2005 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the new 2005 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then be returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

TODAY

0392/1

in 12/5

Stays R M N R

**ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2005 ASSEMBLY BILL 775**

Regen

1 **AN ACT** *to renumber and amend* 125.28 (1); and *to amend* 125.30 (1) and  
2 125.34 (2) (a) of the statutes; **relating to:** fermented malt beverages  
3 wholesalers.

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

4 **SECTION 1.** 125.28 (1) of the statutes, as affected by 2005 Wisconsin Act ...  
5 (Assembly Bill 787), is renumbered 125.28 (1) (a) and amended to read:  
6 125.28 (1) (a) ~~Every~~ Subject to par. (b), every municipal governing body may  
7 issue licenses to wholesalers for the sale of fermented malt beverages from premises  
8 within the municipality, which premises shall comply with the requirements under  
9 s. 125.34 (2). Subject to s. 125.34, a wholesaler's license authorizes sales of fermented  
10 malt beverages only in original packages or containers to retailers or wholesalers,  
11 not to be consumed in or about the wholesaler's premises where sold. ~~In the case of~~

(N) and that further requires that all fermented malt beverages be first unloaded at and distributed from the warehouse of the licensed wholesaler a foreign corporation or foreign limited liability company whose wholesale premises is located outside of this state, in that state

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

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

**SECTION 2.** 125.30 (1) of the statutes, as affected by 2005 Wisconsin Act ... (Assembly Bill 787), is amended to read:

125.30 (1) The department shall issue out-of-state shippers' permits which, except as provided in s. 125.34 (6) (c), authorize the permittee to ship fermented malt beverages only to holders of a wholesaler's license issued under s. 125.28. No Except with respect to any shipment from a warehouse in an adjoining state by a wholesaler issued a wholesale license under s. 125.28 (1) (b), no person may receive fermented malt beverages in this state which have been directly shipped from outside this state by any person other than the holder of a permit issued under this section. Subject to s. 125.34 (2) and (6) (c), all shipments of fermented malt beverages to a wholesaler of fermented malt beverages in this state, whether shipped to the wholesaler from



1 inside this state or from outside this state, shall be unloaded in and distributed from  
2 the wholesaler's warehouse in this state.

3 **SECTION 3.** 125.34 (2) (a) of the statutes, as created by 2005 Wisconsin Act ....  
4 (Assembly Bill 787), is amended to read:

5 125.34 (2) (a) No fermented malt beverages may be sold, transported, or  
6 delivered to a retailer unless, prior to such sale, transport, or delivery, the fermented  
7 malt beverages are first unloaded at and distributed from a wholesaler's warehouse  
8 premises covered by both a wholesaler's license issued under s. 125.28 and an alcohol  
9 beverage warehouse permit issued under s. 125.19, which premises shall be in this  
10 state and shall be a physically separate location from any retail premises or brewery  
11 premises. This paragraph does not apply to a wholesaler issued a wholesaler's  
12 license under s. 125.28 (1) (b) with respect to fermented malt beverages transported  
13 and delivered from a warehouse in an adjoining state unless the wholesaler's  
14 warehouse in the adjoining state is located on premises in the adjoining state used  
15 for the manufacture of fermented malt beverages.

16 **SECTION 4. Initial applicability.**

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

19 (END)