



# State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 12/05/2005 (Per: ARG)





### Appendix A ... Part 01 of 01

 The 2005 drafting file for LRB 05s0344/1

has been copied/added to the 2005 drafting file for

## **LRB 05s0392**

 The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.

**2005 DRAFTING REQUEST**

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

Received: 12/01/2005

Received By: **agary**

Wanted: **Soon**

Identical to LRB:

For: **Mark Pettis (608) 267-2365**

By/Representing: **Alan Colvin**

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**  
**Aaron.Gary@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 12/01/2005	jdye 12/01/2005		_____			
/1			pgreensl 12/01/2005	_____	lnorthro 12/01/2005	lnorthro 12/01/2005	

FE Sent For:

<END>

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1/?	agary	1/12/05 Jed	D/1 PS	D/1 PS 1/19/05			

FE Sent For:

<END>

**Gary, Aaron**

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**From:** Gary, Aaron  
**Sent:** Wednesday, November 30, 2005 4:21 PM  
**To:** Colvin, Alan  
**Subject:** RE: AB 775

Al,

I've been inundated with urgent drafts today, so I've only had a chance to skim through this. Basically, an amendment to reconcile AB-775 with AB-778 (as engrossed) should be done for the reasons indicated by Eric. I believe the best approach is to simply add "exceptions" or "notwithstandings" as necessary to AB-775 for the limited purpose of making it fit with AB-778 for MN-based distributors, while preserving the intent of both AB-775 and AB-778. How about if I do an amendment and then you can see if it works for you? I see this is scheduled for 12/6 so I would try to get something out yet this week. Aaron

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

---

**From:** Colvin, Alan  
**Sent:** Wednesday, November 30, 2005 11:42 AM  
**To:** Gary, Aaron  
**Subject:** FW: AB 775

Aaron,

Could you take a look at this?

**Alan Colvin**

**Office of Rep. Mark Pettis**

**P.O. Box 8953**

**Madison, WI 53708**

**(608) 267-2365**

**(888) 529-0028 TOLL-FREE**

**ALAN.COLVIN@LEGIS.STATE.WI.US**

12/01/2005

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**From:** Eric Jensen [mailto:ericj@wisbeer.org]  
**Sent:** Wednesday, November 30, 2005 10:57 AM  
**To:** Colvin, Alan  
**Subject:** AB 775

Al:

As we talked about - AB 787 and AB 775 were each written contemplating current law, but not contemplating each other. AB 787 has passed both houses and the Governor has indicated his intent to sign it shortly. Given that, I would like to make sure that AB 775 will achieve its goal without altering the effect/purpose of AB 787 - and amend AB 775 as necessary if the bills conflict so when it passes the Assembly it does not need to come back. Make sense?

I'm writing this message so you can simply forward it to Aaron Gary if you wish.

The goal of AB 775 is clearly spelled out in the 2<sup>nd</sup> Paragraph of the Analysis - and remains the same - in essence, to allow a distributor in Minnesota to deliver to territory in Wisconsin for whom that MN-based distributor has distribution rights without requiring that MN-based distributor to have a warehouse located in Wisconsin, thereby creating reciprocity with Minnesota's similar provision.

Questions:

1. AB 787 requires (under created 125.34(2)(a)) distributors to get a "wholesale license" (s. 125.28) and also to get an "alcohol warehouse permit" (s. 125.19) for the warehouse. S. 125.19 appears to require that a warehouse be located in Wisconsin in order to be eligible for an "alcohol warehouse permit."

Q: Do these provisions of AB 787 and AB 775 conflict? If so, can these provisions be rationalized? In other words - allow a warehouse located in MN to be granted a Wisc. "alcohol warehouse permit," or exempt MN-based distributors' warehouses from the "warehouse permit" requirement?

If there is a conflict - possible language: Add "*an alcohol warehouse permit is not required for the wholesale premise, and*" immediately after the phrase "outside of this state" in the 3<sup>rd</sup> sentence of 125.28(1) as amended by AB 787. Then add "Subject to 125.28(1)" to beginning of created 125.34(2)(a).

2. If the sections are rationalized as discussed in Question 1 - then would a properly licensed MN-based distributor meet the "come to rest" requirements of s. 125.34(2)(a) as created by AB 787?

3. Are there any other sections where Aaron sees any need to amend AB 775 so it properly interacts with AB 787?

Hopefully this is clear - but I am happy to e-mail or talk directly with Aaron to facilitate this.

Thanks.

Eric

12/01/2005

2005 - 2006 LEGISLATURE

in 12/11

needed by 12/2 noon

IRB-20817  
ARG/jld&kj/jf

50344/1

Assembly Substitute Amendment,

stays R M NR

TO **2005 ASSEMBLY BILL 775**

October 20, 2005 - Introduced by Representatives PETTIS, LAMB, MURSAN, MUSSER, HAHN, ALBERS, HUBBSCH, HINES and VAN ROY, cosponsored by Senators HARSDORF, A. LASEE, GROTHMAN, LASSA and JAUCH. Referred to Committee on State Affairs.

Regen

- 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.

***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

**ASSEMBLY BILL 775**

~~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.~~

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

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

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

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

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

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

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

*WALKER*

ASSEMBLY BILL 775  
INSERT 2-12 ✓

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 <sup>of any</sup> ~~a~~ warehouse specified under sub. (1m) ~~of~~  
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.



ASSEMBLY BILL 775

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

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

~~125.30 (1) The department shall issue out-of-state shippers' permits which authorize the permittee to ship fermented malt beverages only to holders of a wholesaler's license issued under s. 125.28. 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. All shipments of fermented malt beverages to a wholesaler of fermented malt beverages in this state, whether shipped to the wholesaler from inside this state or from outside this state, shall be unloaded in and distributed from the wholesaler's warehouse in this state are subject to the provisions of s. 125.28 (1m).~~

SECTION 6. Initial applicability.

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

(END)

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0344/lins  
ARG:.....

**INSERT 2-12:**

**SECTION 1.** 125.28 (1) of the statutes, as affected by 2005 Wisconsin Act ...  
(Assembly Bill 787), is renumbered 125.28 (1) (a) and amended to read:

125.28 (1) (a) ~~Every~~ Subject to par. (b), every municipal governing body may issue licenses to wholesalers for the sale of fermented malt beverages from premises within the municipality, which premises shall comply with the requirements under s. 125.34 (2). Subject to s. 125.34, a wholesaler's license authorizes sales of NO  
A

**INSERT 4-1:**

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

SECTION 3. 125.34 (2) (a) of the statutes, as created by 2005 Wisconsin Act ...

(Assembly Bill 787), is amended to read:

4-125.34 (2) (a) No fermented malt beverages may be sold, transported, or delivered to a retailer unless, prior to such sale, transport, or delivery, the fermented malt beverages are first unloaded at and distributed from a wholesaler's warehouse premises covered by both a wholesaler's license issued under s. 125.28 and an alcohol beverage warehouse permit issued under s. 125.19, which premises shall be in this state and shall be a physically separate location from any retail premises or brewery premises. This paragraph does not apply to a wholesaler issued a wholesaler's license under s. 125.28 (1) (b) with respect to fermented malt beverages transported and delivered from a warehouse in an adjoining state unless the wholesaler's warehouse in the adjoining state is located on premises in the adjoining state used for the manufacture of fermented malt beverages.

(end ins 4-1)



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0344/1  
ARG:jld&kjf:pg

ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2005 ASSEMBLY BILL 775

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~~

1 ~~a foreign corporation or foreign limited liability company whose wholesale premises~~  
2 ~~is located outside of this state.~~

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

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

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

17 125.30 (1) The department shall issue out-of-state shippers' permits which,  
18 except as provided in s. 125.34 (6) (c), authorize the permittee to ship fermented malt  
19 beverages only to holders of a wholesaler's license issued under s. 125.28. ~~No~~ Except  
20 with respect to any shipment from a warehouse in an adjoining state by a wholesaler  
21 issued a wholesale license under s. 125.28 (1) (b), no person may receive fermented  
22 malt beverages in this state which have been directly shipped from outside this state  
23 by any person other than the holder of a permit issued under this section. Subject  
24 to s. 125.34 (2) and (6) (c), all shipments of fermented malt beverages to a wholesaler  
25 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)