



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 268
[2005 Assembly Bill 619]

**Retail Sales of Wine by the Bottle in
Restaurants for Consumption On
and Off the Premises**

Under **current law**, alcohol beverages are generally distributed to consumers under a three-tier distribution system: a manufacturer may sell only to a wholesaler or rectifier (a person who blends, refines, or purifies distilled spirits or wines); a wholesaler or rectifier may sell only to a wholesaler or retailer; and a retailer may sell only to a consumer. With specific exceptions, no person may sell outside the three-tier system and no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. A “Class B” license authorizes the retail sale of intoxicating liquor, including wine, for consumption on the premises where sold “by the glass and not in the original package or container” and authorizes the sale of wine “in the original package or container in any quantity to be consumed off the premises where sold.” However, if a municipal ordinance has been adopted, a “Class B” license authorizes the sale of intoxicating liquor to be consumed “by the glass only on the premises where sold,” authorizes the sale of intoxicating liquor for consumption off the premises subject to certain limitations, and authorizes the sale of wine “for consumption off the premises in the original package or otherwise in any quantity.” A “Class C” license authorizes the retail sale of wine “by the glass or in an opened original container for consumption on the premises where sold.”

Under **current law**, with exceptions, no premises for which a “Class B” license or permit or a “Class C” license has been issued may remain open between the hours of 2:00 a.m. and 6:00 a.m. These closing hours may not be altered by a municipality. Restaurants may remain open for the conduct of their regular business but may not sell intoxicating liquor during these closing hours. Between 12:00 midnight and 6:00 a.m., no person may sell intoxicating liquor on “Class B” licensed premises in an original unopened package, container, or bottle or for consumption away from the premises, but a municipal governing body may adopt an ordinance imposing more restrictive hours. Also under **current law**, no premises for which a “Class A” license (authorizing the retail sale of intoxicating liquor for consumption off the premises in original packages and containers) has been issued, and no winery for which a “Class B” license has been issued, may remain open for the sale of intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

2005 Wisconsin Act 268 authorizes a “Class B” or “Class C” licensee that operates a restaurant on the licensed premises to sell wine by the open bottle, for consumption both on and off the licensed premises, in a quantity not to exceed one bottle per person ordering wine and food, if all of the following apply:

1. The purchaser of the wine orders food to be consumed on the licensed premises.
2. The licensee provides a dated receipt that identifies the purchase of the food and the bottle of wine.
3. Prior to the opened, partially consumed bottle of wine being taken off the licensed premises, the licensee securely reinserts the cork into the bottle to the point where the top of the cork is even with the top of the bottle and the cork is not reinserted between the hours of 12:00 midnight and 6:00 a.m.

The provisions of the **Act** do not apply to a “Class B” license issued to a winery.

The **Act** also specifically provides that it does not restrict any existing authorization under current law for a licensee to make retail sales of wine for on-premises or off-premises consumption.

The **Act** also specifies that the state closing hours that currently apply to a “Class B” licensee for off-premise sales apply to sales authorized under the Act but that, for purposes of the Act, these state provisions cannot be modified by municipal ordinance.

Effective Date: The Act takes effect on April 20, 2006.

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PGC:jal