



## 2005 SENATE BILL 399

October 21, 2005 – Introduced by Senators HARSDORF and GROTHMAN, cosponsored by Representatives TOWNSEND, HINES and BALLWEG. Referred to Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.

1     **AN ACT** *to renumber and amend* 125.51 (8); *to amend* 125.04 (3) (g) (intro.),  
2           125.04 (5) (a) 5., 125.06 (13) (a), 125.07 (1) (b) 5., 125.07 (3) (a) 2., 125.10 (4),  
3           125.17 (6) (a) 2., 125.185 (2) and (4), 125.51 (1) (a), 125.53 (1), 125.65 (1), 125.66  
4           (4), 125.68 (2), 125.68 (2m) (a), 125.68 (3) (intro.), 125.68 (4) (b), 125.68 (8) (a)  
5           3., 125.69 (1) (a), 125.69 (1) (c) 3. and 125.69 (6) (c); and **to create** 125.05 (1) (a)  
6           4m. and 125.51 (3s) of the statutes; **relating to:** creating a new license issued  
7           by municipalities authorizing the retail sale of wine in unopened original  
8           containers for consumption off the premises where sold.

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

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 A” license authorizes the retail sale of intoxicating liquor, including wine, for consumption off the licensed premises. A “Class B” license authorizes the retail sale of intoxicating

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liquor for consumption on or off the licensed premises, which authorization is subject to certain limitations, some of which depend on whether the issuing municipality has adopted an ordinance related to “Class B” licenses. A “Class C” license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the licensed premises and may only be issued for a restaurant. Each of these licenses is issued by a municipality.

This bill creates a “Class D” license authorizing the retail sale of wine in unopened original bottles or other unopened original containers for consumption off the licensed premises. The license is issued by municipalities and the annual fee for the license is determined by each issuing municipality, but may not exceed \$100. The restrictions and requirements governing “Class A” licenses under current law also apply to “Class D” licenses.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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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) (g) (intro.) of the statutes is amended to read:

2           125.04 (3) (g) *Publication of application for license.* (intro.) The municipal  
3 clerk shall publish each application for a Class “A”, Class “B”, “Class A”, “Class B”  
4 or, “Class C”, or “Class D” license, except licenses under ss. 125.26 (6) and 125.51 (10),  
5 prior to its issuance in a newspaper according to the following conditions:

6           **SECTION 2.** 125.04 (5) (a) 5. of the statutes is amended to read:

7           125.04 (5) (a) 5. Have successfully completed within the 2 years prior to the  
8 date of application a responsible beverage server training course at any location that  
9 is offered by a technical college district and that conforms to curriculum guidelines  
10 specified by the technical college system board or a comparable training course that  
11 is approved by the department or the educational approval board. This subdivision  
12 does not apply to an applicant who held, or who was an agent appointed and approved  
13 under sub. (6) of a corporation or limited liability company that held, within the past

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1 2 years, a Class “A”, “Class A” ~~or~~, “Class C”, or “Class D” license or a Class “B” or  
2 “Class B” license or permit or a manager’s or operator’s license.

3 **SECTION 3.** 125.05 (1) (a) 4m. of the statutes is created to read:

4 125.05 (1) (a) 4m. “Shall ‘Class D’ licenses (stores, etc.) be issued for the retail  
5 sale of wine in unopened original containers to be consumed away from the premises  
6 where sold?”

7 **SECTION 4.** 125.06 (13) (a) of the statutes is amended to read:

8 125.06 (13) (a) The provision of wine taste samples of not more than 3 fluid  
9 ounces each, free of charge, by a “Class A” or “Class D” licensee to customers and  
10 visitors for consumption on the premises. No “Class A” or “Class D” licensee may  
11 provide more than 2 taste samples per day to any one person. This subsection applies  
12 only between the hours of 10 a.m. and 6 p.m. Notwithstanding s. 125.07 (1) (a) 1.,  
13 no “Class A” or “Class D” licensee may provide taste samples under this subsection  
14 to any underage person. No “Class A” or “Class D” licensee may provide as taste  
15 samples under this subsection wine that the “Class A” or “Class D” licensee did not  
16 purchase from a wholesaler.

17 **SECTION 5.** 125.07 (1) (b) 5. of the statutes is amended to read:

18 125.07 (1) (b) 5. A person who holds a Class “A” license, a Class “B” license or  
19 permit, a “Class A” license, a “Class D” license, or a “Class B” license or permit who  
20 commits a violation is subject to subd. 3. but is not subject to subd. 2. or s. 125.11.

21 **SECTION 6.** 125.07 (3) (a) 2. of the statutes is amended to read:

22 125.07 (3) (a) 2. An underage person who enters or is on a Class “A” ~~or~~, “Class  
23 A”, or “Class D” premises for the purpose of purchasing items other than alcohol  
24 beverages. An underage person so entering the premises may not remain on the  
25 premises after the purchase.

**SENATE BILL 399****SECTION 7**

1           **SECTION 7.** 125.10 (4) of the statutes is amended to read:

2           125.10 (4) **REGULATION OF CLOSED RETAIL PREMISES.** A municipality may not  
3 prohibit the permittee, licensee, employees, salespersons, employees of wholesalers  
4 licensed under s. 125.28 (1) or 125.54 (1) or service personnel from being present on  
5 premises operated under a Class “A”, “Class A” ~~or~~, “Class C”, or “Class D” license or  
6 under a Class “B” or “Class B” license or permit during hours when the premises are  
7 not open for business if those persons are performing job-related activities.

8           **SECTION 8.** 125.17 (6) (a) 2. of the statutes is amended to read:

9           125.17 (6) (a) 2. Within the past 2 years, the person held a Class “A”, “Class A”  
10 ~~or~~, “Class C”, or “Class D” license or a Class “B” or “Class B” license or permit or a  
11 manager’s or operator’s license.

12           **SECTION 9.** 125.185 (2) and (4) of the statutes are amended to read:

13           125.185 (2) A provisional retail license may be issued only to a person who has  
14 applied for a Class “A”, Class “B”, “Class A”, “Class B” ~~or~~, “Class C”, or “Class D”  
15 license and authorizes only the activities that the type of retail license applied for  
16 authorizes.

17           (4) A provisional retail license expires 60 days after its issuance or when the  
18 Class “A”, Class “B”, “Class A”, “Class B” ~~or~~, “Class C”, or “Class D” license is issued  
19 to the holder, whichever is sooner. The official who issued the provisional retail  
20 license may revoke the license if he or she discovers that the holder of the license  
21 made a false statement on the application.

22           **SECTION 10.** 125.51 (1) (a) of the statutes is amended to read:

23           125.51 (1) (a) Every municipal governing body may grant and issue “Class A”  
24 and “Class B” licenses for retail sales of intoxicating liquor, and “Class C” and “Class  
25 D” licenses for retail sales of wine, from premises within the municipality to persons

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1 entitled to a license under this chapter as the issuing municipal governing body  
2 deems proper and may authorize an official or body of the municipality to issue  
3 temporary "Class B" licenses under sub. (10). No "Class B" license may be issued to  
4 a winery under sub. (3) (am) unless the winery has been issued a permit under s.  
5 125.53 and the winery is capable of producing at least 5,000 gallons of wine per year  
6 in no more than 2 locations.

7 **SECTION 11.** 125.51 (3s) of the statutes is created to read:

8 125.51 (3s) RETAIL "CLASS D" LICENSE. (a) A "Class D" license authorizes the  
9 retail sale of wine in unopened original bottles or other unopened original containers  
10 for consumption off the premises where sold.

11 (b) Except as provided under s. 125.69, a "Class D" license may be issued to any  
12 person qualified under s. 125.04 (5), except a person acting as an agent for or in the  
13 employ of another.

14 (c) A "Class D" license shall particularly describe the premises for which it is  
15 issued and is not transferable, except as provided in s. 125.04 (12).

16 (d) The annual fee for a "Class D" license shall be determined by the municipal  
17 governing body issuing the license. The fee shall not exceed \$100 and shall be the  
18 same for all "Class D" licenses.

19 **SECTION 12.** 125.51 (8) of the statutes is renumbered 125.58 (8) (a) (intro.) and  
20 amended to read:

21 125.58 (8) (a) (intro.) Except in the case of hotels, no person may hold ~~both, for~~  
22 the same premises or for connecting premises, a "Class A" or "Class D" license and  
23 ~~either a~~ any of the following:

24 1. A "Class B" license or permit, ~~a.~~

25 2. A Class "B" license or permit ~~or a.~~

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1           ~~3. A “Class C” license for the same premises or for connecting premises. Except,~~  
2           ~~(b) Except for hotels, if either type of a license or permit is issued for the same~~  
3           ~~or connecting premises already covered by the other type of license or permit that~~  
4           ~~causes a person to be in violation of par. (a), the license or permit last issued is void.~~  
5           If both licenses or permits are issued simultaneously, both are void.

6           **SECTION 13.** 125.53 (1) of the statutes is amended to read:

7           125.53 (1) The department shall issue only to a manufacturing winery in this  
8           state that holds a valid certificate issued under s. 73.03 (50) a winery permit  
9           authorizing the manufacture and bottling of wine on the premises covered by the  
10          permit for sale at wholesale to other licensees or permittees. A permittee under this  
11          section may offer on the premises taste samples of wine manufactured on the  
12          premises to persons who have attained the legal drinking age. A permittee under  
13          this section may also have either a “Class A” or, “Class B”, or “Class D” license, but  
14          not both more than one such license. If a “Class A” or, “Class B”, or “Class D” liquor  
15          license has also been issued to the winery, the winery may offer the taste samples on  
16          the “Class A” or, “Class B”, or “Class D” premises.

17          **SECTION 14.** 125.65 (1) of the statutes is amended to read:

18          125.65 (1) The department may issue a permit for wholesale sales for future  
19          delivery which authorizes the permittee to solicit orders, and to engage in the sale,  
20          of intoxicating liquor for delivery at a future date. A person holding a permit under  
21          this section may give a sample of a brand of intoxicating liquor to a “Class A” or “Class  
22          D” licensee who has not previously purchased that brand from the permittee.

23          **SECTION 15.** 125.66 (4) of the statutes is amended to read:

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1           125.66 (4) Notwithstanding sub. (1) and s. 125.04 (1), a “Class A” or “Class D”  
2           licensee who sells intoxicating liquor to a “Class B” licensee for resale may be fined  
3           not more than \$100.

4           **SECTION 16.** 125.68 (2) of the statutes is amended to read:

5           125.68 (2) OPERATORS’ LICENSES; “CLASS A”, “CLASS B” OR, “CLASS C”, OR “CLASS D”  
6           PREMISES. Except as provided under s. 125.07 (3) (a) 10., no premises operated under  
7           a “Class A” OR, “Class C”, OR “Class D” license or under a “Class B” license or permit  
8           may be open for business unless there is upon the premises either the licensee or  
9           permittee, the agent named in the license or permit if the licensee or permittee is a  
10          corporation or limited liability company, or some person who has an operator’s  
11          license and who is responsible for the acts of all persons selling or serving any  
12          intoxicating liquor to customers. An operator’s license issued in respect to a vessel  
13          under s. 125.51 (5) (c) is valid outside the municipality that issues it. For the purpose  
14          of this subsection, any person holding a manager’s license issued under s. 125.18 or  
15          any member of the licensee’s or permittee’s immediate family who has attained the  
16          age of 18 shall be considered the holder of an operator’s license. No person, including  
17          a member of the licensee’s or permittee’s immediate family, other than the licensee,  
18          permittee or agent may serve or sell alcohol beverages in any place operated under  
19          a “Class A” OR, “Class C”, OR “Class D” license or under a “Class B” license or permit  
20          unless he or she has an operator’s license or is at least 18 years of age and is under  
21          the immediate supervision of the licensee, permittee or agent or a person holding an  
22          operator’s license, who is on the premises at the time of the service.

23          **SECTION 17.** 125.68 (2m) (a) of the statutes is amended to read:

24          125.68 (2m) (a) No person may allow another to use his or her “Class A” OR,  
25          “Class C”, OR “Class D” license or “Class B” license or permit to sell alcohol beverages.

**SENATE BILL 399****SECTION 18**

1           **SECTION 18.** 125.68 (3) (intro.) of the statutes is amended to read:

2           125.68 (3) RESTRICTIONS ON LOCATION. (intro.) No “Class A” or, “Class B”, or  
3           “Class D” license or permit may be issued for premises the main entrance of which  
4           is less than 300 feet from the main entrance of any public or parochial school, hospital  
5           or church, except that this prohibition may be waived by a majority vote of the  
6           governing body of the municipality in which the premises is located. The distance  
7           shall be measured by the shortest route along the highway from the main entrance  
8           of the school, church or hospital to the main entrance of the premises covered by the  
9           license or permit. The prohibition in this subsection does not apply to any of the  
10          following:

11          **SECTION 19.** 125.68 (4) (b) of the statutes is amended to read:

12          125.68 (4) (b) *“Class A” and “Class D” retailers.* No premises for which a “Class  
13          A” license or permit “Class D” license has been issued may remain open for the sale  
14          of intoxicating liquor between the hours of 9 p.m. and 8 a.m.

15          **SECTION 20.** 125.68 (8) (a) 3. of the statutes is amended to read:

16          125.68 (8) (a) 3. Possessing diluted intoxicating liquor or refilled original  
17          containers on any premises covered by a “Class A” or, “Class C”, or “Class D” license  
18          or “Class B” license or permit.

19          **SECTION 21.** 125.69 (1) (a) of the statutes is amended to read:

20          125.69 (1) (a) No intoxicating liquor manufacturer, rectifier or wholesaler may  
21          hold any direct or indirect interest in any “Class A” or “Class D” license or  
22          establishment and no “Class A” or “Class D” licensee may hold any direct or indirect  
23          interest in a wholesale permit or establishment, except that a winery that has a  
24          permit under s. 125.53 may have an ownership interest in a “Class A” or “Class D”  
25          license.

