

## 2007 DRAFTING REQUEST

### Assembly Substitute Amendment (ASA-AB795)

Received: 02/22/2008

Received By: agary

Wanted: Soon

Identical to LRB:

For: Karl Van Roy (608) 266-0616

By/Representing: Tanya Hein

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.VanRoy@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

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#### Pre Topic:

No specific pre topic given

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#### Topic:

3-tier liquor distribution system; direct wine shipments; intoxicating liquor wholesalers

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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>02/23/2008 | csicilia<br>02/25/2008 |                        | _____          |                        |                        |                 |
| /1           |                     |                        | pgreensl<br>02/25/2008 | _____          | sbasford<br>02/25/2008 | sbasford<br>02/25/2008 |                 |

FE Sent For:

<END>

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| 1/?          | agary          | 1 cjs<br>2/25<br>08 | 2/26<br>P8   | 2/25<br>P8     | 2/25<br>P8       |                 |                 |

FE Sent For: <END>

**Gary, Aaron**

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**From:** Hein, Tanya  
**Sent:** Friday, February 22, 2008 4:18 PM  
**To:** Gary, Aaron  
**Subject:** AB 795

A new section of the statutes would be created to read:

125.545(8) Purchase and Resale of Wine Industry Trade Goods. Notwithstanding the limitations under (3), a cooperative wholesaler may purchase ancillary wine industry trade goods such as bottles, corks and other supplies used by wineries in the bottling and sale of wine provided that such trade goods do not include any alcohol beverages. Any wine industry trade goods purchased by a cooperative wholesaler under this section may then be offered for resale to the cooperative wholesaler's members or to any winery that was once a member of the cooperative wholesaler.

**Tanya R. Hein**  
Research Assistant

~~~~~  
State Representative Karl Van Roy  
90th Assembly District  
123 West, State Capitol  
P.O. Box 8953  
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2/22  
Hein w/ Tanya - van  
• 50279/1 + this change -  
• new sub  
• today or Mon. AM

# RESEARCH APPENDIX - Draft Transfer/Copy Request Form

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

(Request Made By: ALG) (Date: 2/23/08)



Please transfer the drafting file for

2005 LRB to the drafting file

for 2007 LRB

The final version of the 2005 draft and the final Request Sheet will copied on yellow paper, and returned to the original 2005 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 2005 draft was incorporated into a 2007 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the 2007 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

**---OR---**

Please copy the drafting file for

2007 LRB s 0279 / 1 (include the version) and place it in the

drafting file for 2007 LRB s 0303

For research purposes, because the original 2007 draft was incorporated into another 2007 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 2007 drafting file. This request form will be inserted into the "guts" of the new 2007 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then 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.

Needed Mon.  
2/25 by 10 AM  
S 0303/1

in 2/23

stays

RMNR

SA ✓

**ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2007 ASSEMBLY BILL 795**

S 0279/1 was edited Fri. afternoon  
2/22

Only changes pp. 4 & 16

Regan Cat

1 AN ACT *to repeal* 125.52 (6), 125.52 (8), 125.53 (3), 125.55 (1) (b), 125.58 (4) (a)  
2 1. to 4., 125.58 (4) (b), 125.68 (10) (bm), 125.68 (10) (bs), 125.68 (10) (c), 125.69  
3 (1) (b) 2. and 3., 125.69 (1) (c) 1. to 3. and 125.69 (4) (c); *to renumber* 125.03 (1);  
4 *to renumber and amend* 125.58 (4) (a) (intro.), 125.69 (1) (c) (intro.), 139.11  
5 (4) and 185.043; *to consolidate, renumber and amend* 125.55 (1) (intro.) and  
6 (a); *to amend* 20.566 (1) (ha), 36.11 (40), 125.01, 125.02 (22), 125.03 (3), 125.12  
7 (5), 125.52 (1), 125.53 (1), 125.54 (1), 125.55 (2), 125.58 (1), 125.65 (8), 125.68  
8 (10) (a), 125.68 (10) (b), 125.69 (1) (a), 125.69 (1) (b) 1., 125.69 (6) (a) and 139.11  
9 (4) (title); *to repeal and recreate* 139.035; and *to create* 125.02 (23), 125.03  
10 (1) (b), 125.04 (3) (a) 4m., 125.06 (11m), 125.272, 125.51 (6), 125.535, 125.54 (7)  
11 (e), 125.54 (8), 125.545, 139.11 (4) (b) and 185.043 (2) of the statutes; **relating**  
12 **to:** the production, sale, and distribution of intoxicating liquor, providing an

- 1 exemption from emergency rule procedures, granting rule-making authority,  
2 making an appropriation, and providing a penalty.
- 

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

Under current law, the Department of Revenue (DOR) issues various permits related to intoxicating liquor (which includes wine), including winery permits, manufacturer's permits, rectifier's permits, wholesaler's permits, and out-of-state shipper's permits. Wine may be produced and distributed under a winery permit, manufacturer's permit, or rectifier's permit.

This substitute amendment makes changes to the way in which wine may be produced and distributed in this state, including the following:

1. *Direct shipments of wine to consumers.* Under current law, a winery located outside this state may ship wine into this state without an out-of-state shipper's permit and directly to an individual if the winery is located in a state that has a reciprocal agreement with this state pertaining to out-of-state shipments of wine to individuals in the respective states (reciprocal agreement) and if certain other conditions are met. An individual in this state may not receive more than 27 liters of wine annually from out-of-state wineries. Also, a winery located in this state that holds a winery permit, as well as a person in this state holding an intoxicating liquor manufacturer's or rectifier's permit, may ship wine from this state to individuals in another state under authorization of a reciprocal agreement if certain conditions are met. DOR is required to negotiate and, if possible, enter into reciprocal agreements with other states. Currently this state is a party to such a reciprocal agreement only with California. Current law also does not authorize intrastate shipments of wine directly to consumers.

This substitute amendment repeals the reciprocal agreement system for authorizing interstate wine shipments directly to consumers and replaces it with a new permit system available for both interstate and intrastate shipments of wine directly to consumers. The substitute amendment requires DOR to issue a new permit called a direct wine shipper's permit that authorizes the permittee to ship wine directly to an individual in this state who is of the legal drinking age, who acknowledges receipt of the wine shipped, and who is not intoxicated at the time of delivery. A direct wine shipper's permit may be issued to any person that manufactures and bottles wine on premises covered by a winery, manufacturer's, or rectifier's permit issued by DOR, a winery permit issued by another state, or a federal winery permit. Containers of wine shipped to an individual in this state must be clearly labeled to indicate that the package may not be delivered to an underage person or to an intoxicated person. No individual may resell, or use for a commercial purpose, wine that the individual receives by direct shipment under the permit. No individual in this state may receive more than 108 liters of wine annually that is shipped under authority of the permit. Holders of direct wine shippers' permits must report quarterly to DOR specified information related to wine shipments made under authority of the permit and must include the amount of the occupational tax in the

sales price of the wine and pay the sales or use tax on the sale of the wine shipped under authority of the permit.

2. *Distribution of intoxicating liquor to other licensees and permittees, except by cooperative wholesalers.* Under current law, a winery permit authorizes a winery to manufacture and bottle wine on the winery premises for sale at wholesale to other licensees or permittees, such as retailers, other wholesalers, and manufacturers. A manufacturer's permit or rectifier's permit authorizes a manufacturer or rectifier to manufacture, bottle, and wholesale wine on the manufacturing or rectifying premises. A rectifier's permit authorizes the rectifier to sell its own intoxicating liquor to retailers.

This substitute amendment eliminates the authorization of wineries, manufacturers, and rectifiers to sell wine at wholesale and eliminates the authorization of rectifiers to sell intoxicating liquor directly to retailers. Under the substitute amendment, wineries, manufacturers, and rectifiers may not sell wine directly to retailers. A winery may only sell wine to wholesalers. A manufacturer or rectifier may only sell intoxicating liquor, including wine, to wholesalers, wineries, and other manufacturers and rectifiers.

Under current law, an out-of-state shipper's permit authorizes a person located outside this state to sell or ship intoxicating liquor into this state to a person holding a manufacturer's, rectifier's, wholesaler's, industrial alcohol, or medicinal alcohol permit.

Under this substitute amendment, a person holding an out-of-state shipper's permit may only sell or ship intoxicating liquor into this state to a person holding a wholesaler's permit or, if shipped from a manufacturer or rectifier in another state, to a person holding a manufacturer's or rectifier's permit or a winery permit.

The substitute amendment also requires each wholesaler to negotiate in good faith with any manufacturer, rectifier, or winery that seeks to sell its products through the wholesaler. All wholesalers must work diligently to ensure that distribution channels are available for the sale of intoxicating liquor products through wholesalers to retailers in this state.

3. *Distribution of wine by cooperative wholesalers.* The substitute amendment allows certain wineries holding a winery permit and certain out-of-state wineries to form a cooperative for purposes of wholesaling their wine. However, the substitute amendment requires any such cooperative to be created between October 1, 2008, and December 31, 2008, and limits the total number of these cooperatives to six.

Under the substitute amendment, a winery that produces and bottles less than 25,000 gallons of wine in a calendar year (small winery) may organize with other small wineries as a cooperative known as a small winery cooperative wholesaler (cooperative wholesaler). The principal purpose of a cooperative wholesaler is to sell and distribute wine produced and bottled by the members of the cooperative wholesaler. The membership of a cooperative wholesaler must consist exclusively of small wineries that hold direct shippers' permits and that are certified as small wineries by DOR. To form the cooperative, three or more individuals, at least one of whom must be a resident of this state and all of which must be owners of small wineries, must sign and file articles of incorporation with the Department of

Financial Institutions. A cooperative wholesaler may not employ any owner or employee of its member wineries, but such an owner or employee may act as a volunteer to assist the cooperative wholesaler.

Under the substitute amendment, no cooperative wholesaler may operate without a wholesaler's permit issued by DOR. Within seven days after filing its articles of incorporation as a cooperative, a cooperative wholesaler must apply to DOR for a wholesaler's permit. DOR may issue only one wholesaler's permit to any cooperative wholesaler. DOR may not issue more than a total of six wholesalers' permits to cooperative wholesalers and DOR may not issue any new wholesaler's permit to a cooperative wholesaler after December 31, 2008. A cooperative wholesaler issued a wholesaler's permit is authorized to sell and distribute only

- Insert ANAL-A*
- > wine, including blended or mixed products sold as wine. A cooperative wholesaler
  - > may not sell or distribute any product other than wine. A cooperative wholesaler
  - > may not purchase wine from any person other than a member and may not resell or distribute wine unless it has been purchased on consignment from a member. A cooperative wholesaler may only sell or distribute wine to a retailer or to another
  - > wholesaler.

*Insert ANAL-B*

Under the substitute amendment, a member of a cooperative wholesaler may not sell its wine directly to any other wholesaler or directly to a retailer; it must make its wine available to retailers and other wholesalers only through the cooperative wholesaler.

Under the substitute amendment, a cooperative wholesaler is not subject to certain provisions of current law requiring a wholesaler to physically unload intoxicating liquor at a warehouse location prior to distribution and requiring a wholesaler to annually sell and deliver intoxicating liquor to at least ten retailers that do not have any direct or indirect interest in each other or in the wholesaler. Neither a cooperative wholesaler nor its winery members are subject to certain provisions of current law restricting common ownership interests in wineries and wholesalers. Except as provided in the substitute amendment, all provisions of law that apply to a wholesaler also apply to a cooperative wholesaler.

The substitute amendment requires DOR to certify applicants as small wineries if the applicant is a winery that produces and bottles less than 25,000 gallons of wine in a calendar year, holds a direct shipper's permit, and submits any other information that DOR determines is necessary to certify that the winery is operating as a small winery and is eligible for membership in a cooperative wholesaler. In certifying a winery as a small winery, DOR must classify the winery as either a Wisconsin winery or an out-of-state winery. A cooperative wholesaler may not give preferential treatment to a member that is a Wisconsin winery or discriminate against a member that is an out-of-state winery.

The substitute amendment requires the board of directors of a cooperative wholesaler, at least once every six months, to meet in person with DOR and the University of Wisconsin Center for Cooperatives. The substitute amendment specifies various requirements related to these meetings, including that publicly available reports be prepared by DOR and the Center for Cooperatives as a result of



these meetings. The substitute amendment also requires each cooperative wholesaler to biennially file a report with DOR that includes specified information.

Under the substitute amendment, any winery that sells or distributes its wine directly to a retailer, rather than through a wholesaler or cooperative wholesaler, is subject to a fine of not more than \$10,000 and revocation of the permits issued to it by DOR. Any cooperative wholesaler that provides preferential treatment to a Wisconsin winery or discriminates against an out-of-state winery is subject to a fine of not more than \$10,000 and revocation of its wholesaler's permit.

4. *Blending or mixing wine or distilled spirits.* Current law is unclear as to whether a winery operating under a winery permit may mix or blend wine with other intoxicating liquor to produce fortified wine and whether a winery may receive shipments of bulk wine or other intoxicating liquor directly from out-of-state producers holding an out-of-state shipper's permit.

This substitute amendment clarifies that a winery operating under a winery permit may, without obtaining a rectifier's permit, possess intoxicating liquor and mix or blend intoxicating liquor to produce wine sold to wholesalers. The substitute amendment also clarifies the definition of "wine" by specifying that wine contains not more than 21 percent of alcohol by volume.

The substitute amendment specifically authorizes wholesalers to sell intoxicating liquor to wineries, manufacturers, and rectifiers for production purposes. The substitute amendment also specifies that an out-of-state shipper's permittee may sell or ship intoxicating liquor into this state directly to a winery.

5. *Face-to-face retail sales.* The substitute amendment specifies that an intoxicating liquor or fermented malt beverages retail license or permit, with limited exceptions, authorizes only face-to-face sales to consumers at the premises described in the retail license or permit.

6. *Common ownership interests.* The substitute amendment specifies that certain restrictions on common ownership interests that apply under current law to manufacturers, rectifiers, and wholesalers also apply to wineries and out-of-state shipper permittees. The substitute amendment further provides that rectifiers, wineries, and out-of-state shipper permittees may not hold any direct or indirect interest in any wholesale permit or establishment and that, except for a retail license issued to a winery, no retail licensee may hold any direct or indirect interest in any manufacturer, rectifier, winery, or out-of-state shipper permittee.

Under current law, an exception to the common ownership restrictions allows a winery to hold one retail license, which may be a "Class A" license or a "Class B" license. The substitute amendment clarifies this exception, including specifying that the retail licensed premises may be on the winery premises or on real estate owned or leased by the winery and that the winery may distribute its own wine to its own retail premises without going through a wholesaler.

7. *DOR industry reports.* The substitute amendment requires DOR to publish monthly reports containing specified information related to the intoxicating liquor industry.

8. *Wine collectors.* The substitute amendment specifically authorizes, by creating a new license or permit exception, a wine collector to sell to any other wine

collector manufacturer–sealed bottles or containers of wine that the seller has held for at least eight years, but limits this exception to one sale in a 12–month period. The substitute amendment also authorizes a wine collector to donate manufacturer–sealed bottles or containers of wine to any charitable organization and allows the charitable organization to use the wine in any event held by the charitable organization or other fund–raising effort of the charitable organization.

9. *Effective date.* The general effective date of the substitute amendment is October 1, 2008. Notwithstanding any other provision of the substitute amendment, a winery holding a winery permit issued prior to the substitute amendment's effective date may continue to sell its wine at wholesale, in the manner authorized under current law, until June 30, 2009.

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

1           **SECTION 1.** 20.566 (1) (ha) of the statutes is amended to read:

2           20.566 (1) (ha) *Administration of liquor tax and alcohol beverages enforcement.*

3           The amounts in the schedule for computer, audit, and enforcement costs incurred in  
4           administering the tax under s. 139.03 (2m) and for costs incurred in enforcing the  
5           3–tier system for alcohol beverages production, distribution, and sale under ch. 125.

6           All moneys received from the administration fee under s. 139.06 (1) (a) and any  
7           permit fee under s. 125.535 (2) shall be credited to this appropriation.

8           Notwithstanding s. 20.001 (3) (a), at the end of each fiscal year, the unencumbered  
9           balance of this appropriation account, minus an amount equal to 10% of the sum of  
10          the amounts expended and the amounts encumbered from the account during the  
11          fiscal year, shall lapse to the general fund.

12          **SECTION 2.** 36.11 (40) of the statutes is amended to read:

13          36.11 (40) **CENTER FOR COOPERATIVES.** The board shall maintain a center for  
14          cooperatives at the University of Wisconsin–Madison. The center shall comply with  
15          the requirements specified in s. 125.545 (5) (a).

16          **SECTION 3.** 125.01 of the statutes is amended to read:

1           **125.01 Legislative intent.** This chapter shall be construed as an enactment  
2 of the legislature’s support for the 3–tier system for alcohol beverages production,  
3 distribution, and sale that, through uniform statewide regulation, provides this  
4 state regulatory authority over the production, storage, distribution, transportation,  
5 sale, and consumption of alcohol beverages by and to its citizens, for the benefit of  
6 the public health and welfare and this state’s economic stability. Without the 3–tier  
7 system, the effective statewide regulation and collection of state taxes on alcohol  
8 beverages sales would be seriously jeopardized. It is further the intent of the  
9 legislature that without a specific statutory exception, all sales of alcohol beverages  
10 shall occur through the 3–tier system, from manufacturers to licensed wholesalers  
11 to retailers to consumers. Face–to–face retail sales at licensed premises directly  
12 advance the state’s interest in preventing alcohol sales to underage or intoxicated  
13 persons and the state’s interest in efficient and effective collection of tax.

14           **SECTION 4.** 125.02 (22) of the statutes is amended to read:

15           125.02 (22) “Wine” means products obtained from the normal alcohol  
16 fermentation of the juice or must of sound, ripe grapes, other fruits or other  
17 agricultural products, imitation wine, compounds sold as wine, vermouth, cider,  
18 perry, mead and sake, if such products contain ~~0.5% or more~~ not less than 0.5 percent  
19 nor more than 21 percent of alcohol by volume.

20           **SECTION 5.** 125.02 (23) of the statutes is created to read:

21           125.02 (23) “Wine collector” means an individual who meets the standards  
22 established by the department by rule and who is registered with the department as  
23 a collector of wine.

24           **SECTION 6.** 125.03 (1) of the statutes is renumbered 125.03 (1) (a).

25           **SECTION 7.** 125.03 (1) (b) of the statutes is created to read:

1           125.03 (1) (b) The department shall promulgate rules providing for registration  
2 of wine collectors and establishing standards of eligibility for registration as a wine  
3 collector. The rules shall also specify the form and manner of notice required under  
4 s. 125.06 (11m) (a).

5           **SECTION 8.** 125.03 (3) of the statutes is amended to read:

6           125.03 (3) VIOLATIONS. No person may violate a rule promulgated under sub.  
7 (1) (a) or (2).

8           **SECTION 9.** 125.04 (3) (a) 4m. of the statutes is created to read:

9           125.04 (3) (a) 4m. If the applicant is a cooperative organized under ch. 185, the  
10 identity of the cooperative members, board of directors, and agent.

11           **SECTION 10.** 125.06 (11m) of the statutes is created to read:

12           125.06 (11m) WINE COLLECTORS. (a) The sale by a wine collector to any other  
13 wine collector of manufacturer–sealed bottles or containers of wine that the selling  
14 wine collector has held for at least 8 years if the selling wine collector has provided  
15 prior notice of the sale to the department. No more than one sale in any 12–month  
16 period may be conducted by a wine collector under this paragraph.

17           (b) The donation by a wine collector of manufacturer–sealed bottles or  
18 containers of wine to any charitable organization for use by the charitable  
19 organization in any event held by the charitable organization or other fund–raising  
20 effort of the charitable organization, and no license or permit under this chapter is  
21 required of the charitable organization for such use of the donated wine.

22           **SECTION 11.** 125.12 (5) of the statutes is amended to read:

23           125.12 (5) REVOCATIONS OR SUSPENSIONS OF, OR REFUSALS TO RENEW, PERMITS BY  
24 THE DEPARTMENT. The department may, after notice and an opportunity for hearing,  
25 revoke, suspend or refuse to renew any retail permit issued by it for the causes

1 provided in sub. (4) and any other permit issued by it under this chapter for any  
2 violation of this chapter or ch. 139, except that, for a violation of sub. (4) (ag) 6. with  
3 respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or  
4 139.035, the department shall revoke the license or permit. A revocation, suspension  
5 or refusal to renew is a contested case under ch. 227.

6 **SECTION 12.** 125.272 of the statutes is created to read:

7 **125.272 Face-to-face retail sales.** Except as provided in s. 125.26 (2m) and  
8 (2s) and except with respect to caterers, a retail license issued under s. 125.25 or  
9 125.26, and a retail permit issued under s. 125.27, authorizes only face-to-face sales  
10 to consumers at the premises described in the retail license or permit.

11 **SECTION 13.** 125.51 (6) of the statutes is created to read:

12 **125.51 (6) FACE-TO-FACE RETAIL SALES.** Except as provided in sub. (3) (bm) and  
13 (bs) and except with respect to caterers, a retail license or permit issued under this  
14 section authorizes only face-to-face sales to consumers at the premises described in  
15 the retail license or permit.

16 **SECTION 14.** 125.52 (1) of the statutes is amended to read:

17 **125.52 (1) AUTHORIZED ACTIVITIES.** The department shall issue manufacturers'  
18 and rectifiers' permits which authorize the manufacture or rectification,  
19 respectively, of intoxicating liquor on the premises covered by the permit. A person  
20 holding a manufacturer's or rectifier's permit may manufacture, and bottle or  
21 wholesale wine, pursuant to the terms of the permit, without procuring a winery  
22 permit. A manufacturer's or rectifier's permit entitles the permittee to sell  
23 intoxicating liquor to wholesalers holding a permit under s. 125.54, to wineries  
24 holding a permit under s. 125.53, and to other manufacturers and rectifiers holding  
25 a permit under this section, from the premises described in the permit. Holders of

1 ~~rectifiers' permits may sell intoxicating liquor rectified by the permittee to retailers~~  
2 ~~without any other permit.~~ No sales may be made for consumption on the premises  
3 of the permittee. Possession of a permit under this section does not authorize the  
4 permittee to sell tax-free intoxicating liquor and wines brought into this state under  
5 s. 139.03 (5).

6 **SECTION 15.** 125.52 (6) of the statutes is repealed.

7 **SECTION 16.** 125.52 (8) of the statutes is repealed.

8 **SECTION 17.** 125.53 (1) of the statutes is amended to read:

9 125.53 (1) The department shall issue only to a manufacturing winery in this  
10 state that holds a valid certificate issued under s. 73.03 (50) a winery permit  
11 authorizing the manufacture and bottling of wine on the premises covered by the  
12 permit for sale at wholesale to other licensees or permittees to wholesalers holding  
13 a permit under s. 125.54. A winery permit also authorizes the permittee to, on the  
14 winery premises and without obtaining a rectifier's permit, possess intoxicating  
15 liquor and mix or blend intoxicating liquor to produce wine sold to wholesalers  
16 holding a permit under s. 125.54. A permittee winery holding a permit under this  
17 section may offer on the premises taste samples of wine manufactured on the  
18 premises to persons who have attained the legal drinking age. A permittee under  
19 this section may also have either ~~a~~ one "Class A" license or one "Class B" license,  
20 but not both. The "Class A" license or "Class B" license may either be issued for the  
21 winery premises or for real estate owned or leased by the winery. If a "Class A" or  
22 "Class B" liquor license has also been issued to the winery, the winery may provide  
23 wine manufactured, mixed, or blended on the winery premises directly to the "Class  
24 A" or "Class B" premises and may offer the taste samples on the "Class A" or "Class  
25 B" premises.

1           **SECTION 18.** 125.53 (3) of the statutes is repealed.

2           **SECTION 19.** 125.535 of the statutes is created to read:

3           **125.535 Direct wine shippers' permits. (1) AUTHORIZED ACTIVITIES.** The  
4 department shall issue direct wine shippers' permits authorizing the permittee to  
5 ship wine directly to an individual in this state who is of the legal drinking age, who  
6 acknowledges receipt of the wine shipped, and who is not intoxicated at the time of  
7 delivery.

8           **(2) ANNUAL PERMIT FEE.** The department may, by rule, establish an annual fee,  
9 not to exceed \$100, for each permit issued under this section. All fees collected under  
10 this subsection shall be credited to the appropriation account under s. 20.566 (1) (ha).

11           **(3) PERSONS ELIGIBLE. (a)** A direct wine shipper's permit may be issued under  
12 this section to any person that manufactures and bottles wine on premises covered  
13 by any of the following:

14           1. A manufacturer's or rectifier's permit under s. 125.52.

15           2. A winery permit under s. 125.53.

16           3. A winery license, permit, or other authorization issued to the winery by any  
17 state from which the winery will ship wine into this state.

18           4. A federal basic permit for a winery under 27 USC 203 and 204.

19           **(b)** A winery located outside of this state is eligible for a direct wine shipper's  
20 permit under par. (a) 3. or 4. if all of the following apply:

21           1. The winery holds a valid business tax registration certificate issued under  
22 s. 73.03 (50).

23           2. The winery submits to the department, with any initial application or  
24 renewal for a certificate under s. 73.03 (50) or a permit under par. (a) 3. or 4., a copy

1 of any current license, permit, or authorization issued to the winery by the state from  
2 which the winery will ship wine into this state or the winery's federal basic permit.

3 (c) Notwithstanding s. 125.04 (5) (a), natural persons obtaining direct wine  
4 shippers' permits are not required to be residents of this state. Notwithstanding s.  
5 125.04 (5) (a) 5., a person is not required to complete a responsible beverage server  
6 training course to be eligible for a permit under this section. Corporations and  
7 limited liability companies obtaining direct wine shippers' permits are subject to s.  
8 125.04 (6) and any other person, including any natural person or cooperative,  
9 obtaining a direct wine shipper's permit shall appoint an agent, and be subject to all  
10 provisions of s. 125.04 (6), in the same manner applicable to corporations and limited  
11 liability companies.

12 (4) LABELS. Containers of wine shipped to an individual in this state under this  
13 section shall be clearly labeled to indicate that the package may not be delivered to  
14 an underage person or to an intoxicated person.

15 (5) RESTRICTIONS. No individual may resell, or use for a commercial purpose,  
16 wine received by the individual that is shipped under authority of this section.

17 (6) ANNUAL LIMIT. No individual in this state may receive more than 108 liters  
18 of wine annually shipped under authority of this section. Each individual shall be  
19 responsible for compliance with this annual limit. An individual who violates this  
20 annual limit is subject to s. 125.11 (1). This subsection does not apply to purchases  
21 made under a permit issued under s. 125.61.

22 **SECTION 20.** 125.54 (1) of the statutes is amended to read:

23 125.54 (1) AUTHORIZED ACTIVITIES. The department shall issue wholesalers'  
24 permits authorizing the permittee to sell, from the premises described in the permit,  
25 intoxicating liquor at wholesale ~~from the premises described in the permit.~~ Except



1 ~~as provided under s. 125.69 (1) (b) 3., the to retailers and wholesalers, as well as to~~  
2 ~~manufacturers, rectifiers, and wineries for production purposes. The permittee may~~  
3 ~~not sell intoxicating liquor for consumption on the premises. If a wholesale permit~~  
4 ~~is issued to a brewery that holds a “Class B” license, the permit shall authorize the~~  
5 ~~wholesale sale of wine only.~~ Possession of a permit under this section does not  
6 authorize the permittee to sell tax-free intoxicating liquor and wine brought into  
7 this state under s. 139.03 (5).

8 **SECTION 21.** 125.54 (7) (e) of the statutes is created to read:

9 125.54 (7) (e) This subsection does not apply to a cooperative wholesaler under  
10 s. 125.545.

11 **SECTION 22.** 125.54 (8) of the statutes is created to read:

12 125.54 (8) DUTY TO WORK IN GOOD FAITH. Each wholesaler has an obligation to  
13 negotiate in good faith with any manufacturer, rectifier, or winery that seeks to sell  
14 its products in this state through the wholesaler. To this end, all wholesalers shall  
15 work diligently to ensure that distribution channels are available for the sale of  
16 intoxicating liquor products through wholesalers to retailers in this state.

17 **SECTION 23.** 125.545 of the statutes is created to read:

18 **125.545 Small winery cooperative wholesalers. (1) DEFINITIONS.** In this  
19 section:

20 (a) “Member” means a small winery that meets the requirements established  
21 under this section for membership in a cooperative wholesaler and that has been  
22 qualified and accepted for membership in a cooperative wholesaler.

23 (b) “Out-of-state winery” means a winery that is located in a state other than  
24 this state and that holds a valid direct shipper’s permit issued under s. 125.535.

1 (c) “Retailer” means any person holding a “Class A”, “Class B”, or “Class C”  
2 license or “Class B” permit issued under s. 125.51.

3 (d) “Small winery” means any winery that produces and bottles less than  
4 25,000 gallons of wine in a calendar year.

5 (e) “Small winery cooperative wholesaler” or “cooperative wholesaler” means  
6 an entity established under this section.

7 (f) “Wisconsin winery” means a winery operating under a permit issued under  
8 s. 125.53.

9 **(2) CREATION AND ORGANIZATION.** (a) 1. A cooperative wholesaler may only be  
10 created as provided under s. 185.043 (2) and this section. Each cooperative  
11 wholesaler operating under authority of this section shall be organized under ch. 185  
12 but shall be subject to the limitations on such cooperatives imposed by this section.  
13 Subject to subd. 3., only small wineries may be members of a cooperative wholesaler.  
14 The principal purpose of a cooperative wholesaler shall be to sell and distribute wine  
15 manufactured, blended, or mixed, and also bottled, by its members.

16 2. Notwithstanding s. 185.08 (1), a cooperative wholesaler shall include in its  
17 articles of incorporation under ch. 185 a single location for its agent and principal  
18 office, which location shall be in this state.

19 3. A small winery may become a member of a cooperative wholesaler only if all  
20 of the following apply:

21 a. The small winery holds a direct shipper’s permit under s. 125.535.

22 b. The small winery is certified by the department under sub. (6) (a) as a small  
23 winery.

24 (b) In addition to the requirements specified in s. 185.31 for the board of  
25 directors of a cooperative wholesaler, a director representing a member that is a

1 Wisconsin winery shall be either an owner or an employee of that Wisconsin winery.  
2 If any out-of-state winery is a member of the cooperative wholesaler, at least one  
3 director shall be either an owner or an employee of an out-of-state winery that is a  
4 member of the cooperative wholesaler.

5 (c) Notwithstanding any provision of ch. 185, a cooperative wholesaler may not  
6 employ any owner or employee of a member. However, an individual that is an owner  
7 or an employee of a member may act as a volunteer to assist that cooperative  
8 wholesaler in the sale and distribution of wine to retailers and other wholesalers in  
9 the manner authorized under this section.

10 **(3) AUTHORIZATION AND ACTIVITIES.** (a) 1. Within 7 days after filing its articles  
11 of incorporation under ch. 185, a cooperative wholesaler shall apply to the  
12 department for a wholesaler's permit under s. 125.54. The provisions of s. 125.04 (5)  
13 (c) and (6) shall apply to a cooperative wholesaler as if the cooperative wholesaler  
14 were a corporation or a limited liability company and, for each of these provisions,  
15 the department shall determine whether the cooperative wholesaler is most similar  
16 to a corporation or a limited liability company in the context of that provision and  
17 apply that provision to the cooperative wholesaler accordingly.

18 2. Notwithstanding s. 125.54 (6), the department may issue not more than one  
19 wholesaler's permit to any cooperative wholesaler. The department may not issue  
20 more than a total of 6 wholesalers' permits to cooperative wholesalers in this state.  
21 The department may not issue any new wholesaler's permit to a cooperative  
22 wholesaler after December 31, 2008, but may renew wholesalers' permits that were  
23 initially issued to cooperative wholesalers prior to that date.

24 3. No cooperative wholesaler may operate in this state without a wholesaler's  
25 permit.

1 (b) 1. Notwithstanding s. 125.54 (1), <sup>and except as provided in subd. 3.)</sup> a cooperative wholesaler issued a  
2 wholesaler's permit under par. (a) is authorized to sell and distribute only wine. <sup>(Aa)</sup>  
3 cooperative wholesaler may not sell or distribute any alcohol beverages, or any other  
4 product, except wine. <sup>Except as provided in subd. 3.)</sup>

5 2. A cooperative wholesaler shall purchase on consignment wine from its  
6 members to be resold to retailers and other wholesalers. Notwithstanding s. 125.69  
7 (5), a cooperative wholesaler may not purchase wine from any person other than a  
8 member. A cooperative wholesaler may not resell or distribute wine unless it has  
9 been purchased on consignment from a member. Notwithstanding s. 125.54 (1), a  
10 cooperative wholesaler may not sell or distribute wine except to a retailer or to a  
11 wholesaler holding a permit under s. 125.54.

12 <sup>4.3.</sup> A cooperative wholesaler shall work with all of its members on evenhanded  
13 terms. Any preferential treatment by a cooperative wholesaler for the benefit of a  
14 member that is a Wisconsin winery, and any discrimination against a member that  
15 is an out-of-state winery, is prohibited.

16 (c) Neither a cooperative wholesaler nor its members are subject to any  
17 restriction on dealings under s. 125.69 (1) between wholesalers and wineries. Except  
18 as provided in s. 125.54 (7) (e) and as otherwise provided in this section, all provisions  
19 of this chapter and ch. 139 that apply to a wholesaler issued a permit under s. 125.54  
20 also apply to a cooperative wholesaler issued a permit under s. 125.54.

21 (4) EXCLUSIVE DISTRIBUTION. A member of a cooperative wholesaler may make  
22 its wine available for purchase by a retailer or another wholesaler only through the  
23 cooperative wholesaler of which it is a member. A member of a cooperative  
24 wholesaler may not sell its wine directly to any other wholesaler or directly to a  
25 retailer.

1           **(5) SEMIANNUAL MEETINGS AND BIENNIAL REPORTS.** (a) At least once every 6  
2 months, the board of directors of a cooperative wholesaler shall meet in person with  
3 an employee of the department. At each of these meetings, the cooperative  
4 wholesaler shall provide a detailed report of its operations and sales activities, bring  
5 whatever documentation the department considers reasonably necessary for the  
6 department to conduct its review of the cooperative wholesaler, and answer any  
7 questions the department may have about the cooperative wholesaler's activities.  
8 A representative of the University of Wisconsin Center for Cooperatives shall also  
9 attend each of these meetings. Within 7 days after each of these meetings, the  
10 department shall submit in writing to the cooperative wholesaler all additional  
11 questions for which the department requests an answer of the cooperative  
12 wholesaler. The cooperative wholesaler shall provide answers to the department's  
13 questions within 7 days. Within 6 weeks after each of these meetings, the  
14 department shall issue a report stating whether the cooperative wholesaler is  
15 operating properly under this state's law and shall detail any problem areas that the  
16 cooperative wholesaler must correct. The University of Wisconsin Center for  
17 Cooperatives shall also issue a report within 6 weeks of each of these meetings and  
18 detail in that report all recommendations on how the cooperative wholesaler can  
19 improve its operations and better comply with this state's law. All reports issued by  
20 the department and by the University of Wisconsin Center for Cooperatives shall be  
21 publicly available.

22           (b) With each application for renewal of a wholesaler's permit issued to a  
23 cooperative wholesaler, each cooperative wholesaler shall file with the department,  
24 in the form and manner prescribed by the department by rule, a biennial report that

1 includes detailed information on its members, board of directors, and sale and  
2 distribution activities.

3 **(6) DEPARTMENT CERTIFICATION AND RULE MAKING.** (a) 1. The department shall,  
4 upon application, certify eligible applicants as small wineries and renew prior  
5 certifications of eligible applicants as small wineries.

6 2. Any winery seeking to become a member of, or to maintain its membership  
7 in, a cooperative wholesaler may apply to the department for certification as a small  
8 winery. If the winery meets the definition of a small winery under this section,  
9 satisfies the requirement under sub. (2) (a) 3. a., and submits any other information  
10 that the department determines is necessary to certify that the winery is operating  
11 as a small winery and is eligible for membership in a cooperative wholesaler, the  
12 department shall certify the winery as a small winery. This certification shall remain  
13 valid for one year.

14 3. In certifying any winery under subd. 2., the department shall classify the  
15 winery as either a Wisconsin winery or an out-of-state winery.

16 4. The department shall refuse to certify under this paragraph any winery that  
17 cannot demonstrate it holds all necessary permits for its operations or that the  
18 department finds is otherwise not in full compliance with the laws of this state.

19 (b) The department shall promulgate rules to administer and enforce the  
20 requirements under this section.

21 **(7) PENALTIES.** (a) Any winery that sells or distributes its wine directly to a  
22 retailer, rather than through a wholesaler or cooperative wholesaler, is subject to a  
23 fine of not more than \$10,000 and revocation of all of its permits by the department  
24 under s. 125.12 (5).

1 (b) Any cooperative wholesaler that provides preferential treatment to a  
2 Wisconsin winery or discriminates against an out-of-state winery is subject to a fine  
3 of not more than \$10,000 and revocation of its wholesaler's permit by the department  
4 under s. 125.12 (5).

5 **SECTION 24.** 125.55 (1) (intro.) and (a) of the statutes are consolidated,  
6 renumbered 125.55 (1) and amended to read:

7 125.55 (1) The department may issue the following combination permits: (a)  
8 A a combination manufacturer's and rectifier's permit.

9 **SECTION 25.** 125.55 (1) (b) of the statutes is repealed.

10 **SECTION 26.** 125.55 (2) of the statutes is amended to read:

11 125.55 (2) A combination manufacturer's and wholesaler's permit may not be  
12 issued. A combination rectifier's and wholesaler's permit may not be issued.

13 **SECTION 27.** 125.58 (1) of the statutes is amended to read:

14 125.58 (1) The department shall issue out-of-state shippers' permits which  
15 authorize persons located outside this state to sell or ship intoxicating liquor into this  
16 state. Except as provided under sub. (4), intoxicating liquor may be shipped into this  
17 state only to a person holding a ~~manufacturer's, rectifier's, wholesaler's, industrial~~  
18 ~~alcohol or medicinal alcohol~~ permit under s. 125.54 or, if shipped from a  
19 manufacturer or rectifier in another state holding a permit under this section, to a  
20 person holding a manufacturer's or rectifier's permit under s. 125.52 or a winery  
21 permit under s. 125.53. Except as provided under sub. (4), a separate out-of-state  
22 shipper's permit is required for each location from which any intoxicating liquor is  
23 sold or shipped into this state, including the location from which the invoices are  
24 issued for the sales or shipments. Any person holding an out-of-state shipper's  
25 permit issued under this section may solicit orders for sales or shipments by the

1        permittee without obtaining the sales solicitation permit required by s. 125.65, but  
2        every agent, salesperson or other representative who solicits orders for sales or  
3        shipments by an out-of-state shipper shall first obtain a permit for soliciting orders  
4        under s. 125.65. No holder of an out-of-state shipper's permit issued under this  
5        section may sell intoxicating liquor in this state or ship intoxicating liquor into this  
6        state unless the out-of-state shipper is the primary source of supply for that  
7        intoxicating liquor.

8            **SECTION 28.** 125.58 (4) (a) (intro.) of the statutes is renumbered 125.58 (4) and  
9        amended to read:

10            125.58 **(4)** A winery located outside of this state may ship wine into this state  
11        as provided under s. ~~125.68 (10) (bm)~~ if all of the following apply: 125.535 and is not  
12        required to hold an out-of-state shipper's permit under this section.

13            **SECTION 29.** 125.58 (4) (a) 1. to 4. of the statutes are repealed.

14            **SECTION 30.** 125.58 (4) (b) of the statutes is repealed.

15            **SECTION 31.** 125.65 (8) of the statutes is amended to read:

16            125.65 **(8)** Nonresident persons holding permits under this section may solicit  
17        sales from retailers in this state only if the orders are solicited for, and will be filled  
18        by, persons holding permits under s. ~~125.52 or~~ 125.54.

19            **SECTION 32.** 125.68 (10) (a) of the statutes is amended to read:

20            125.68 **(10)** (a) Except as provided in ~~par. (bm)~~ s. 125.535, no intoxicating liquor  
21        may be shipped into this state unless consigned to a person holding a wholesaler's  
22        permit for the sale of intoxicating liquor, other than a retail "Class B" permit under  
23        s. 125.54 or, if shipped from a manufacturer or rectifier in another state holding a  
24        permit under s. 125.58, consigned to a person holding a manufacturer's or rectifier's  
25        permit under s. 125.52 or a winery permit under s. 125.53.



1           **SECTION 33.** 125.68 (10) (b) of the statutes is amended to read:

2           125.68 **(10)** (b) Except as provided in ~~par. (bm)~~ s. 125.535, no common carrier  
3           or other person may transport into and deliver within this state any intoxicating  
4           liquor unless it is consigned to a person holding a wholesaler's permit for the sale of  
5           intoxicating liquor, other than a retail "Class B" permit under s. 125.54 or, if shipped  
6           from a manufacturer or rectifier in another state holding a permit under s. 125.58,  
7           consigned to a person holding a manufacturer's or rectifier's permit under s. 125.52  
8           or a winery permit under s. 125.53. Any common carrier violating this paragraph  
9           shall forfeit \$100 for each violation.

10           **SECTION 34.** 125.68 (10) (bm) of the statutes is repealed.

11           **SECTION 35.** 125.68 (10) (bs) of the statutes is repealed.

12           **SECTION 36.** 125.68 (10) (c) of the statutes is repealed.

13           **SECTION 37.** 125.69 (1) (a) of the statutes is amended to read:

14           125.69 **(1)** (a) No intoxicating liquor manufacturer, rectifier, winery,  
15           out-of-state shipper permittee, or wholesaler may hold any direct or indirect  
16           interest in any "Class A" license or establishment and no "Class A" licensee may hold  
17           any direct or indirect interest in a wholesale permit or establishment, except that a  
18           winery that has a permit under s. 125.53 may have an ownership interest in a "Class  
19           A" license.

20           **SECTION 38.** 125.69 (1) (b) 1. of the statutes is amended to read:

21           125.69 **(1)** (b) 1. Except as provided under ~~subds. 2. to~~ subd. 4., no intoxicating  
22           liquor manufacturer, rectifier, winery, out-of-state shipper permittee, or wholesaler  
23           may hold any direct or indirect interest in any "Class B" license or permit or  
24           establishment or "Class C" license or establishment and no "Class B" licensee or  
25           permittee or "Class C" licensee may hold any direct or indirect interest in a

1 manufacturer, rectifier, winery, out-of-state shipper, or wholesale permit or  
2 establishment.

3 **SECTION 39.** 125.69 (1) (b) 2. and 3. of the statutes are repealed.

4 **SECTION 40.** 125.69 (1) (c) (intro.) of the statutes is renumbered 125.69 (1) (c)  
5 and amended to read:

6 125.69 (1) (c) No manufacturer, rectifier, winery, or out-of-state shipper  
7 permittee, whether located within or without this state, may hold any direct or  
8 indirect interest in any wholesale permit or establishment, ~~except as provided in s.~~  
9 ~~125.53, and except that a manufacturer that is also a brewer may hold a permit~~  
10 ~~issued under s. 125.54 for the wholesale sale of wine only. This paragraph does not~~  
11 ~~prohibit any of the following persons from obtaining a permit under s. 125.65:~~  
12 Except as provided in s. 125.53, no retail licensee may hold any direct or indirect  
13 interest in any manufacturer, rectifier, winery, or out-of-state shipper permittee.

14 **SECTION 41.** 125.69 (1) (c) 1. to 3. of the statutes are repealed.

15 **SECTION 42.** 125.69 (4) (c) of the statutes is repealed.

16 **SECTION 43.** 125.69 (6) (a) of the statutes is amended to read:

17 125.69 (6) (a) No campus or retail licensee or permittee may purchase  
18 intoxicating liquor from, or possess intoxicating liquor purchased from, any person  
19 other than a ~~manufacturer, rectifier or~~ wholesaler holding a permit under this  
20 chapter for the sale of intoxicating liquor.

21 **SECTION 44.** 139.035 of the statutes is repealed and recreated to read:

22 **139.035 Wine shipped directly to individuals in this state. (1)** All wine  
23 shipped directly to an individual located in Wisconsin by a person holding a direct  
24 wine shipper's permit under s. 125.535 shall be sold with the occupational tax  
25 imposed under s. 139.03 included in the selling price. As directed by the department,

1 the taxes imposed under s. 139.03 shall be paid to, and a quarterly return filed with,  
2 the department once every quarter on or before the 15th day of the next month  
3 following the close of the calendar quarter. In addition to filing a quarterly liquor tax  
4 return, each person holding a direct wine shipper's permit under s. 125.535 shall be  
5 required to file an addendum, on forms furnished by the department, that provides,  
6 at minimum, the identity, quantity, and price of all wine shipped to individuals in this  
7 state during the previous quarter, along with the name, address, and birthdate of  
8 each person who purchased the wine as well as the name of the person of legal  
9 drinking age who acknowledged delivery of the wine. Working with permittees  
10 under s. 125.535, the department shall develop forms, in both paper and electronic  
11 format, for use by such permittees in obtaining this information and complying with  
12 any other requirement under this state's law in connection with the direct shipment  
13 of wine. The department shall keep confidential, in the same manner required for  
14 tax returns under s. 71.78 (1) and (5) to (8), reports submitted under this subsection,  
15 but the department may use aggregated or summary information from such reports  
16 for purposes of s. 139.11 (4) (b).

17 **(2)** Any failure of a person holding a direct wine shipper's permit under s.  
18 125.535 to pay the occupational tax or file the addendum required under sub. (1)  
19 within 30 days of its due date constitutes grounds for revocation or suspension of the  
20 permit. The provisions on timely filing under s. 71.80 (18) apply to the tax and  
21 addendum required under this section.

22 **(3)** No wine may be shipped directly to an individual in this state by a person  
23 holding a direct wine shipper's permit under s. 125.535 unless the tax imposed under  
24 s. 77.52 or 77.53 is paid on the sale of such wine.

25 **SECTION 45.** 139.11 (4) (title) of the statutes is amended to read:

1           139.11 **(4)** (title) CONFIDENTIALITY AND PUBLICATIONS.

2           **SECTION 46.** 139.11 (4) of the statutes is renumbered 139.11 (4) (a) and  
3 amended to read:

4           139.11 **(4)** (a) Sections 71.78 (1) and (4) to (9) and 71.83 (2) (a) 3., relating to  
5 confidentiality of income, franchise and gift tax returns, apply to any information  
6 obtained from any person on a fermented malt beverage ~~or intoxicating liquor~~ tax  
7 return, report, schedule, exhibit or other document or from an audit report relating  
8 to any of those documents, except that the department of revenue shall publish  
9 brewery production and sales statistics ~~and shall publish or permit the publication~~  
10 ~~of statistics on the total number of gallons of the types and brands of intoxicating~~  
11 ~~liquor sold in this state.~~

12           **SECTION 47.** 139.11 (4) (b) of the statutes is created to read:

13           139.11 **(4)** (b) Sections 71.78 (1) and (4) to (9) and 71.83 (2) (a) 3., relating to  
14 confidentiality of income, franchise and gift tax returns, do not apply to any  
15 information obtained from any person on an intoxicating liquor tax return, report,  
16 schedule, exhibit or other document or from an audit report relating to any of those  
17 documents. With the information provided to the department by any person, the  
18 department of revenue shall publish at least once each month:

19           1. Statistics on the total number of liters of the types and brands of intoxicating  
20 liquor sold in this state.

21           2. A current and regularly updated list, made available on paper and on the  
22 department's Internet Web site, of permit holders that minimally includes detailed  
23 information on the name, address, contact person, and date of permit issuance for  
24 every manufacturer's and rectifier's permit issued under s. 125.52, winery permit  
25 issued under s. 125.53, direct wine shipper's permit issued under s. 125.535,

1 wholesaler's permit issued under s. 125.54, and out-of-state shipper's permit issued  
2 under s. 125.58.

3 3. A report summarizing the identity, quantity, and price of all products sold  
4 under each winery permit issued under s. 125.53 and each direct wine shipper's  
5 permit issued under s. 125.535.

6 4. A report summarizing the sales quantity and product data available for all  
7 products sold under each wholesaler's permit issued under s. 125.54.

8 **SECTION 48.** 185.043 of the statutes is renumbered 185.043 (1) and amended  
9 to read:

10 185.043 (1) Five Except as provided in sub. (2), 5 or more adults, one of whom  
11 must be a resident, may form a cooperative by signing, acknowledging and filing  
12 articles.

13 **SECTION 49.** 185.043 (2) of the statutes is created to read:

14 185.043 (2) If the cooperative is formed for purposes of operating as a small  
15 winery cooperative wholesaler under s. 125.545, 3 or more individuals, at least one  
16 of whom must be a resident and all of which must be owners of small wineries  
17 certified by the department of revenue under s. 125.545 (6) (a), may form a  
18 cooperative by signing, acknowledging, and filing articles. Membership in a  
19 cooperative formed under this subsection is limited to small wineries certified by the  
20 department of revenue under s. 125.545 (6) (a).

21 **SECTION 50. Nonstatutory provisions.**

22 (1) POSITION AUTHORIZATION. The authorized FTE positions for the department  
23 of revenue are increased by 1.0 PR position, to be funded from the appropriation  
24 under section 20.566 (1) (ha) of the statutes, as affected by this act, for the purpose  
25 of performing computer, audit, and enforcement services incurred in administering

1 the tax under section 139.03 (2m) of the statutes and for enforcing the 3–tier system  
2 for alcohol beverages production, distribution, and sale under chapter 125 of the  
3 statutes.

4 (2) SMALL WINERY INTERIM CERTIFICATION. (a) The department of revenue shall,  
5 upon application, certify under this subsection eligible applicants as small wineries.

6 (b) Any winery that may seek to become a member of a cooperative wholesaler  
7 after October 1, 2008, may apply to the department of revenue for certification as a  
8 small winery. If the winery meets the definition of a small winery under section  
9 125.545 (1) (d) of the statutes, as created by this act, and satisfies the requirement  
10 under section 125.545 (2) (a) 3. a. of the statutes, as created by this act, and submits  
11 any other information that the department determines is necessary to certify that  
12 the winery is operating as a small winery and will be eligible for membership in a  
13 cooperative wholesaler after October 1, 2008, the department shall certify the winery  
14 as a small winery. This certification shall remain valid for one year.

15 (c) In certifying any winery under paragraph (b), the department of revenue  
16 shall classify the winery as either a Wisconsin winery or an out–of–state winery, as  
17 those terms are defined under section 125.545 (1) of the statutes, as created by this  
18 act.

19 (d) The department of revenue shall refuse to certify under this subsection any  
20 winery that cannot demonstrate it holds all necessary permits for its operations or  
21 that the department finds is otherwise not in full compliance with the laws of this  
22 state.

23 (e) This subsection does not apply after September 30, 2008.

24 (3) SMALL WINERY DISTRIBUTION PHASE-IN. Notwithstanding section 125.53 (1)  
25 of the statutes, as affected by this act, a winery that was issued a permit under

1 section 125.53 (1), 2005 stats., prior to the effective date of this subsection is  
2 authorized to sell at wholesale to other licensees or permittees under chapter 125  
3 wine manufactured and bottled on the premises covered by the winery permit. This  
4 subsection does not apply after June 30, 2009.

5 (4) RULE MAKING. (a) The department of revenue shall submit in proposed form  
6 the rules required under sections 125.03 (1) (b) and 125.545 (6) (b) of the statutes,  
7 as created by this act, to the legislative council staff under section 227.15 (1) of the  
8 statutes no later than July 1, 2008.

9 (b) Using the emergency rules procedure under section 227.24 of the statutes,  
10 the department of revenue shall promulgate the rules required under sections  
11 125.03 (1) (b) and 125.545 (6) (b) of the statutes, as created by this act, for purposes  
12 of implementing this act, for the period before the effective date of the rules  
13 submitted under paragraph (a). The department of revenue shall promulgate these  
14 emergency rules no later than July 1, 2008. Notwithstanding section 227.24 (1) (c)  
15 and (2) of the statutes, these emergency rules may remain in effect until July 1, 2010,  
16 or the date on which permanent rules take effect, whichever is sooner.  
17 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of  
18 revenue is not required to provide evidence that promulgating a rule under this  
19 paragraph as an emergency rule is necessary for the preservation of the public peace,  
20 health, safety, or welfare and is not required to provide a finding of emergency for a  
21 rule promulgated under this paragraph.

22 **SECTION 51. Effective dates.** This act takes effect on October 1, 2008, except  
23 as follows:

24 (1) SECTION 50 (2) of this act takes effect on July 1, 2008.





**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0303/1ins  
ARG:.....

**INSERT ANAL-A:**

(no P) , and ancillary wine industry trade goods such as bottles, corks, and other supplies used by wineries, but

**INSERT ANAL-B:**

(no P) and may only sell ancillary wine industry trade goods to the cooperative wholesaler's members or former members.

**INSERT 16-11:**

3. A cooperative wholesaler may purchase ancillary wine industry trade goods such as bottles, corks, and other supplies used by wineries in the bottling and sale of wine if such trade goods do not include any alcohol beverages. Any wine industry trade goods purchased by a cooperative wholesaler under this subdivision may be offered for resale to the cooperative wholesaler's members or to any winery that was formerly a member of the cooperative wholesaler.