

Gary, Aaron

From: Tuschen, Terry
Sent: Wednesday, March 21, 2007 5:48 PM
To: Gary, Aaron
Cc: Tuschen, Terry
Subject: FW: Draft review: LRB 07-1983/P2 Topic: Creating brew pub permit

Attachments: Brewpub provisions.doc



Brewpub
provisions.doc (70 KB)

Hi Aaron, Mike asked me to forward this to you. Looks like he meant to get this to you sooner.

Thanks again and let me know if you have any questions.

Terry

-----Original Message-----

From: Michael Welsh [mailto:mike.hovenconsulting@tds.net]
Sent: Wed 3/21/2007 3:14 PM
To: Tuschen, Terry
Subject: Re: Draft review: LRB 07-1983/P2 Topic: Creating brew pub permit

Thanks Terry!

Could you in turn send the attached document to Aaron in response to his previous attached document? I meant to get a response to him much earlier.

Thanks,

Mike

----- Original Message -----

From: Tuschen, Terry
To: Michael Welsh ; Ryan Natzke
Cc: Tuschen, Terry
Sent: Wednesday, March 21, 2007 1:10 PM
Subject: FW: Draft review: LRB 07-1983/P2 Topic: Creating brew pub permit

Hey Michael and Ryan, here's the new draft. Can you forward this to the other(s) for their review too?

Thanks much,

Terry

From: Gary, Aaron
Sent: Wednesday, March 21, 2007 1:05 PM
To: Tuschen, Terry
Subject: FW: Draft review: LRB 07-1983/P2 Topic: Creating brew pub permit

Hi Terry,

If you haven't seen it yet, this redraft is now out (attached).

Aaron

Statutory provisions that should apply to "brewpubs"

125.02(3)

(3) "Brewery premises" means all land and buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.

- No. However, please create a definition for "brewpub premises" (which I see you included).

125.02(21)

(21) "Wholesaler" means a person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit or license to sell alcohol beverages at wholesale.

- Yes

125.04(9)

(9) Separate license or permit required. Except as provided under ss. 125.27 (2) (a) and 125.51 (5) (c) 1., wholesalers, manufacturers, rectifiers, brewers and retailers shall have a separate permit or license covering each location or premises, except a licensed public warehouse, from which deliveries and sales of alcohol beverages are made or at which alcohol beverages are stored.

- Yes

125.06(1)

(1) Brewers' premises. The furnishing, by brewers, of fermented malt beverages free of charge to customers, visitors and employees on the brewery premises if the fermented malt beverages are consumed on the brewery premises and are not furnished or consumed in or near any room or place where intoxicating liquor is sold.

- No

125.07(3)(a)13.

13. An underage person who enters or remains in a banquet or hospitality room on brewery premises operated under a Class "B" or "Class B" license for the purpose of attending a brewery tour.

- No

125.07(4)(bm)1.

1. A brewer.

- Yes

125.32(5)

(5) Signs near taps and brands on tap; Class "B" premises. Every Class "B" licensee or permittee selling or offering for sale draught fermented malt beverages shall display a sign on or near each tap or faucet disclosing the brand of fermented malt beverage drawn from the tap or faucet and the name of its brewer. No Class "B" licensee or permittee may substitute any other brand of fermented malt beverage in place of the brand designated on the sign with the intent to defraud or deceive the customer.

- Yes

125.32(7)(a)

(a) No fermented malt beverages may be sold, offered or exposed for sale, kept in possession with intent to sell, or served on any premises for which a license or permit for the sale of fermented malt beverages has been issued unless each barrel, keg, cask, bottle or other container bears a label or other identification with the name and address of the brewer. The possession of any fermented malt beverages which are not so identified on any premises for which a license or permit for the sale of fermented malt beverages has been issued is prima facie evidence that the fermented malt beverages are possessed with intent to sell, offer for sale, display for sale or give away.

- Yes

125.33

125.33 Restrictions on dealings between brewers, wholesalers and retailers.

125.33(1)(a)

(a) Except as provided in this section and s. 125.31, no brewer or wholesaler may furnish, give, lend, lease or sell any furniture, fixtures, fittings, equipment, money or other thing of value to any campus or Class "B" licensee or permittee, or to any person for the use, benefit or relief of any campus or Class "B" licensee or permittee, or guarantee the repayment of any loan or the fulfillment of any financial obligation of any campus or Class "B" licensee or permittee. Such actions may not be taken by the brewer or wholesaler directly or indirectly, or through a subsidiary or affiliate corporation or limited liability company, or by any officer, director, stockholder, partner or member thereof.

- Yes

125.33(1)(b)

(b) No brewer or wholesaler may enter into any agreement whereby any campus or Class "B" licensee or permittee is required to purchase the fermented malt beverages of any brewer to the exclusion of those manufactured by other brewers. Such contracts may not be entered into by the brewer or wholesaler, directly or indirectly, or through a subsidiary or an affiliate corporation or limited liability company, or by any officer, director, stockholder, partner or member thereof.

- Yes

125.33(2)

(2) (intro.) Exceptions. Notwithstanding the prohibitions in sub. (1), a brewer or wholesaler may:

125.33(2)(a)

(a) Give to any campus or Class "B" licensee or permittee, at any given time, for placement inside the premises, signs, clocks, or menu boards with an aggregate value of not more than \$2,500. If a gift of any item would cause the \$2,500 limit to be exceeded, the recipient shall pay the brewer or wholesaler the amount of the item's value in excess of \$2,500. Each recipient shall keep an invoice or credit memo containing the name of the donor and the number and value of items received under this paragraph. The value of an item is its cost to the donor. Each recipient shall make the records kept under this paragraph available to the department for inspection upon request.

- Yes

125.33(2)(d)

(d) Sell to a campus or Class "B" licensee or permittee at fair market value equipment designed and intended to preserve and maintain the sanitary dispensing of fermented malt beverages or any services necessary to maintain this kind of equipment. A brewer or wholesaler shall charge the same price per unit of equipment to each campus or Class "B" licensee or permittee making the same or a similar purchase, and shall charge the same rate to each campus or Class "B" licensee or permittee purchasing maintenance services under this subdivision. Each brewer or wholesaler shall keep records of each transaction under this subdivision and shall make the records available to the department upon request.

- Yes

125.33(2)(i)

(i) Lease or lend furniture, fixtures, fittings and equipment to any person in possession of a Class "B" premises where the furniture, fixtures, fittings and equipment were installed on the Class "B" premises prior to May 24, 1941. Any brewer or wholesaler who repossesses any furniture, fixtures, fittings or equipment leased, lent or sold to any Class "B" licensee or permittee may sell them to any Class "B" licensee or permittee, for cash on delivery only, and shall deliver a bill of sale to the purchaser. Any application for a Class "B" license or permit after May 24, 1941, shall contain an affidavit by the applicant, setting forth the ownership of the fixtures in or attached to the premises and if the fixtures are not owned by the applicant, the manner, terms and conditions under which the fixtures are held.

- Yes

125.33(2)(j)

(j) Contribute money or other items of value to, or purchase advertising from, an institution of higher education which is exempt under section 501 (c) (3) of the internal revenue code, as defined in s. 71.22 (4), if the contribution or purchase is for a purpose other than the use, benefit or relief of premises or operations for the sale of fermented malt beverages and is not contingent either upon the use of the product of the brewer or wholesaler by the institution or upon an agreement by the institution wholly or partly to exclude from sale the products of a competing brewer or wholesaler.

- Yes

125.33(2)(k)

(k) Contribute money or other items of value, or purchase advertising from, a campus if the contribution or purchase is for a purpose other than the use, benefit or relief of premises or operations for the sale of fermented malt beverages and is not contingent either upon the use of the product of the brewer or wholesaler by the campus or upon an agreement by the campus partly or wholly to exclude from sale the products of a competing brewer or wholesaler.

- Yes

125.33(2)(L)2.

2. Purchase advertising from a person who does not hold a license under this chapter and who conducts national or regional sweepstakes, contests, or promotions on the premises of Class "B" licensees or permittees that sell the brewer's or wholesaler's products. The person may promote an event or activity in connection with a sweepstakes, contest, or promotion, including promoting the location of the event or activity, if the Class "B" licensee or permittee on whose premises the event or activity will occur does not receive money for hosting the event or activity and, except as provided in subd. 4., if the advertising for the event or activity identifies at least 4 unaffiliated Class "B" licensees or permittees.

- Yes

125.33(2)(L)3.

3. Conduct national or regional sweepstakes, contests, or promotions on the premises of Class "B" licensees or permittees that sell the brewer's or wholesaler's products. The brewer or wholesaler may promote an event or activity in connection with a sweepstakes, contest, or promotion, including promoting the location of the event or activity, if the Class "B" licensee or permittee on whose premises the event or activity will occur does not receive money for hosting the event or activity and, except as provided in subd. 4., if the advertising for the event or activity identifies at least 4 unaffiliated Class "B" licensees or permittees.

- Yes

125.33(2)(L)4.

4. A brewer that manufactures less than 30,000 barrels of fermented malt beverages annually may purchase advertising under subd. 2, and may promote sweepstakes, contests, or promotions through advertising under subd. 3., if the advertising identifies at least one Class "B" licensee or permittee.

- Yes

125.33(2)(n)2.

2. Notwithstanding subd. 1., no brewer or wholesaler may provide business entertainment to a Class "B" licensee or permittee under subd. 1. in one day that has a value exceeding \$500, and no brewer or wholesaler may provide business entertainment to a Class "B" licensee or permittee under subd. 1. on more than 8 days in any calendar year.

- Yes

125.33(2)(p)1.

1. Have present not more than 3 individuals representing the brewer at a fermented malt beverages tasting event that lasts 2 days or less and at which taste samples of fermented malt beverages brewed or sold by at least 5 different brewers are offered for consumption by persons who either pay for the taste samples or pay a charge for admission to the event. Any individual representing a brewer shall confine his or her activities on the premises to ensuring the integrity of, providing information about and dispensing the brewer's fermented malt beverages.

- Yes

125.33(2s)

(2s) Exception for retail trade association contributions. Notwithstanding the prohibitions in sub. (1), a brewer or wholesaler may contribute money or other things of value to a bona fide national, statewide, or local trade association that derives its principal income from membership dues of Class "B" licensees.

- Yes

125.33(3)

(3) Exemption for certain real estate. The restrictions contained in sub. (1) do not apply to real estate owned in whole or part on May 24, 1941, by any brewer or wholesaler, directly or indirectly, or through or by a subsidiary or affiliate corporation, or by any officer, director, stockholder, partner or trustee for any of the foregoing, or upon which any of the foregoing held a valid lien on May 24, 1941, or to any real estate owned in whole or part by any of the foregoing upon which there is or may be a hotel of 100 or more rooms.

- No

125.33(7)(d)

(d) Penalties. A retail licensee or permittee who violates this subsection is subject to the penalties under s. 125.11 except that he or she may not be imprisoned. No brewer or wholesaler may be subjected to any penalty as the result of the sale of fermented malt beverages to a campus or retail licensee or permittee when purchased by the campus or retail licensee or permittee in violation of this subsection.

- Yes

125.33(7m)

(7m) Conditional purchases. No Class "A" or Class "B" licensee may condition the purchase of fermented malt beverages from a brewer or wholesaler upon the furnishing by the brewer or wholesaler of any thing of value, other than the products purchased, to the licensee or to any person for the use, benefit, or relief of the licensee.

- Yes

125.33(8)

(8) Exclusive sales by wholesaler. A wholesaler may not sell or offer to sell a brand of fermented malt beverages exclusively to one Class "A" licensee or to a group of Class "A" licensees affiliated through common ownership, management or control, unless the brand of fermented malt beverages is produced by a brewer which produces less than 300,000 barrels of fermented malt beverages in a calendar year.

- Yes

125.33(10)(a)1.

1. "Brand" means any word, name, group of letters, symbols, or combination thereof, including the name of the brewer if the brewer's name is also a significant part of the product name, adopted and used by a brewer to identify a specific fermented malt beverage product and to distinguish that product from other fermented malt beverages produced by that brewer or other brewers.

- Yes

125.33(10)(a)2.

2. "Discontinued brand" means, with respect to a terminated wholesaler, any brand of fermented malt beverages for which a brewer, brewer's agent, or holder of an out-of-state shipper's permit has terminated, cancelled, or failed to renew an agreement, whether oral or written, with the wholesaler to supply that brand.

- Yes

125.33(10)(a)3.

3. "Successor wholesaler" means any wholesaler who enters into an agreement, whether oral or written, to obtain a supply of a brand of fermented malt beverages from a brewer, brewer's agent, or holder of an out-of-state shipper's permit after the brewer, brewer's agent, or holder of an out-of-state shipper's permit has terminated, cancelled, or failed to renew an agreement, whether oral or written, with a terminated wholesaler to supply that same brand of fermented malt beverages.

- Yes

125.33(10)(a)4.

4. "Terminated wholesaler" means a wholesaler with whom a brewer, brewer's agent, or holder of an out-of-state shipper's permit has terminated, cancelled, or failed to renew an agreement, whether oral or written, to supply a brand of fermented malt beverages to that wholesaler.

- Yes

125.33(10)(b)

(b) Except as provided in par. (c) and subject to pars. (d) and (e), a successor wholesaler shall compensate a terminated wholesaler for the fair market value of the terminated wholesaler's distribution rights to any discontinued brand of fermented malt beverages assumed by the successor wholesaler for the same territory, less any amount paid to the terminated wholesaler by the brewer, brewer's agent, or holder of an out-of-state shipper's permit for the discontinued brand. If the terminated wholesaler's distribution rights to any discontinued brand of fermented malt beverages are divided among 2 or more successor wholesalers, each successor wholesaler shall compensate the terminated wholesaler for the fair market value of the distribution rights to any discontinued brand of fermented malt beverages assumed by that successor wholesaler for the applicable part of the same territory, less any amount paid to the terminated wholesaler by the brewer, brewer's agent, or holder of an out-of-state shipper's permit for the discontinued brand. A terminated wholesaler may not receive under this paragraph total compensation from the successor wholesaler and brewer, brewer's agent, or holder of an out-of-state shipper's permit that exceeds the fair market value of the terminated wholesaler's distribution rights specified under this paragraph.

- Yes

125.33(10)(c)1.

1. The wholesaler or a principal of the wholesaler engaged in material fraudulent conduct or made substantial misrepresentations in its dealings with the brewer, brewer's agent, or holder of an out-of-state shipper's permit or with others regarding any brand of the brewer, brewer's agent, or holder of an out-of-state shipper's permit.

- Yes

125.33(10)(c)3.

3. The wholesaler or a principal of the wholesaler knowingly distributed any brand of the brewer, brewer's agent, or holder of an out-of-state shipper's permit outside the territory authorized by the brewer, brewer's agent, or holder of an out-of-state shipper's permit for distribution of the brand.

- Yes

125.33(11)(a)

(a) Subject to s. 125.34 (3), no wholesaler who holds a retail license issued under this chapter may sell a brand of fermented malt beverages to another retail licensee unless the wholesaler has an agreement for general wholesale distribution of that brand of fermented malt beverages with the brewer, brewer's agent or holder of an out-of-state shipper's permit supplying that brand.

- Yes

125.33(11)(b)

(b) If a wholesaler who holds a retail license issued under this chapter violates par. (a), any other wholesaler aggrieved by such violation or the brewer may bring an action against such wholesaler in any court of competent jurisdiction for damages sustained by the aggrieved wholesaler or the brewer as a consequence of the violation, together with the actual costs of the action. Notwithstanding s. 814.04 (1), a wholesaler or the brewer who prevails in an action under this paragraph may recover reasonable actual attorney fees incurred in the action.

- Yes

139.01(1)

(1) "Bottler" means any person other than a brewer who places fermented malt beverages in bottles or similar containers.

- Yes

139.04(2)

(2) Furnishing by a brewer of fermented malt beverages to workmen employed in the brewery for consumption on the brewery premises without charge.

- Yes

139.04(4)

(4) Sale or shipment of fermented malt beverages by a brewer to a bottler or of intoxicating liquor in bulk between manufacturers, rectifiers and wineries.

- No

139.05(2)

(2) Each brewer and bottler in this state and each wholesaler of malt beverages within this state to whom malt beverages are shipped from outside this state shall on or before the fifteenth day of each month file with the secretary on forms prescribed by the secretary a verified return containing such information as may be required to compute and show the amount of occupational tax payable by the brewer, bottler or wholesaler or by the shipper for the next preceding calendar month on malt beverages.

- No

139.05(7)(a)

(a) If any present or future law or regulation effective in any state prohibits a person from shipping into such state a fermented malt beverage produced outside thereof except upon condition that the person shipping such fermented malt beverage into such state first obtain a license therefor from such state and if such license or a renewal thereof may be refused for violation of any law of such state relating to fermented malt beverages, it is unlawful to ship into this state or to purchase or sell within this state any fermented malt beverage produced in such state, unless and until the brewer thereof is the holder of a valid subsisting license as provided in this subsection.

- No

139.05(7)(b)

(b) Such license shall be issued by the secretary to persons who hold a valid certificate issued under s. 73.03 (50). The application for such license shall be verified and shall contain an agreement on the part of the brewer that the brewer shall observe all laws of this state relating to fermented malt beverages, and such other information and statements as the secretary may require. Any such brewer who has, directly or indirectly, violated any law of this state relating to fermented malt beverages shall not be entitled to such a license. The secretary may require the applicant to furnish a bond payable to the state in an amount not less than \$1,000 nor more than \$5,000 conditioned upon the faithful compliance by the applicant with the undertakings set forth in the application for the license.

- No

139.05(7)(d)

(d) Any such brewer and any other person who ships or causes or permits to be shipped into this state any such fermented malt beverage, and any person who knowingly receives within this state from outside this state any such fermented malt beverage, at a time when the brewer thereof is not the holder of a valid and subsisting license as herein provided, is guilty of a misdemeanor.

- No

139.08(4)

(4) Inspection for enforcement. Duly authorized employees of the department of justice and the department of revenue and any sheriff, police officer, marshal or constable, within their respective jurisdictions, may at all reasonable hours enter any licensed premises, and examine the books, papers and records of any brewer, manufacturer, bottler, rectifier, wholesaler or retailer, for the purpose of inspecting the same and determining whether the tax and fee imposed by ss. 139.01 to 139.25 have been fully paid, and may inspect and examine, according to law, any premises where fermented malt beverages or intoxicating liquors are manufactured, sold, exposed for sale, possessed or stored, for the purpose of inspecting the same and determining whether the tax imposed by ss. 139.01 to 139.25 has been fully paid, and whether ss. 139.01 to 139.25 and ch. 125 are being complied with. Any refusal to permit such examination of such premises is sufficient grounds under s. 125.12 for revocation or suspension of any license or permit granted for the sale of any fermented malt beverages or intoxicating liquors and is punishable under s. 139.25 (10).

- Yes

139.09

139.09 Registration. Every brewer, bottler, manufacturer, rectifier, wholesaler or retailer liable for payment of the occupational tax imposed in ss. 139.01 to 139.25 shall hold a valid certificate under s. 73.03 (50). The secretary shall assign the person a registration number.

- Yes

139.11(2)

(2) Report. Each brewer, bottler, manufacturer, rectifier and wholesaler shall on or before the 15th day of each calendar month or the dates prescribed by the secretary file a verified report of all fermented malt beverages or intoxicating liquor manufactured, received, sold, delivered or shipped by him or her during the preceding calendar month, except that the department may allow wholesale, winery and out-of-state shipper permittees whose tax liability is less than \$500 per quarter to file on a quarterly basis. Quarterly reports shall be filed on or before the 15th of the next month following the close of the calendar quarter.

- Yes

139.11(3)

(3) Secretary's powers. When the secretary finds that the records kept by any brewer, bottler, manufacturer, rectifier, wholesaler or retailer are in such condition that an unusual amount of time is required to determine therefrom the amount of tax due, the secretary may give notice of such fact to such person and may require the records to be kept in such form as the secretary prescribes. If such requirements are not complied with

within 30 days after the date of the notice, the brewer, bottler, manufacturer, rectifier, wholesaler or retailer shall pay the expenses reasonably attributable to the determination of tax at the rate of \$30 per day for each auditor. The secretary shall render a bill therefor by registered mail to the person charged with payment at the conclusion of the audit, which bill shall constitute notice of assessment and demand of payment thereof. The brewer, bottler, manufacturer, rectifier, wholesaler or retailer shall, within 10 days after the mailing of the bill, pay its amount, and such payment shall be credited to the appropriation made in s. 20.566 (1) (a).

- Yes

139.11(4)

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

- Yes

139.18(1)

(1) The possession of any fermented malt beverages on any licensed premises, other than upon the premises of a brewer or bottler, shall be deemed prima facie evidence that such products are kept with intent to sell and that such products are subject to the tax herein imposed.

- Yes

139.22

139.22 Confiscation. If a duly authorized employee of the department of revenue or the department of justice or any sheriff, police officer, marshal or constable, within his or her respective jurisdiction, discovers any fermented malt beverages upon any premises other than the premises of a brewer or bottler, or any intoxicating liquor upon any premises other than the premises of a manufacturer, rectifier, winery or wholesaler, and upon which the tax has not been paid or which was possessed, kept, stored, manufactured, sold, distributed or transported in violation of ss. 139.01 to 139.25 and ch. 125, the employee or any such officer may immediately seize the fermented malt beverages or intoxicating liquors. Any such fermented malt beverages or intoxicating liquors so seized shall be held by the department of revenue and disposed of under s. 125.14 (2) (e).

- Yes

346.93(1)

(1) No underage person, as defined under s. 125.02 (20m), may knowingly possess, transport or have under his or her control any alcohol beverage in any motor vehicle unless the person is employed by a brewer, an alcohol beverage licensee, wholesaler, retailer, distributor, manufacturer or rectifier and is possessing, transporting or having such beverage in a motor vehicle under his or her control during his or her working hours and in the course of employment, as provided under s. 125.07 (4) (bm).

- Yes



State of Wisconsin
2007 - 2008 LEGISLATURE

TODAY
if possible

LRB-1983/02 P3

ARG:wj:jf

stays RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Only changes are
and pp 4, 13, 21 is p. 6

Regen

1 AN ACT *to repeal* 125.31 (1) (a) 1. (intro.) and 125.31 (1) (a) 3.; *to renumber*
2 125.31 (1) (a) 1. a. to e.; *to amend* 125.02 (2), 125.02 (21), 125.04 (9), 125.06 (1),
3 125.07 (3) (a) 13. and (4) (bm) 1., 125.10 (4), 125.26 (2) (b) 1., 125.28 (2) (b) 2.,
4 125.31 (1) (a) 2., 125.31 (1) (a) 4., 125.32 (5) and (7) (a), 125.33 (title), (1), (2)
5 (intro.), (a), (d), (j), (k), (L) 2., 3., and 4., (n) 2., and (p) 1., (2s), (6), (7) (a) 1. a.
6 and b., (b), (c), and (d), (7m), (8), (9), (10) (a) 1. to 4., (b), and (c) 1. and 3., and
7 (11), 125.34 (title), (1) (a) and (c), (2) (a), (bg), and (bm), (3) (a) 1. and 2., (4) (a)
8 and (5), 125.54 (1), 139.01 (1) and (2), 139.04 (2), 139.08 (4), 139.09, 139.11 (2),
9 (3) and (4), 139.18 (1), 139.22 and 346.93 (1); and *to create* 125.02 (2d) (intro.),
10 (2h), (2p), and (2t), 125.25 (2) (b) 5., 125.28 (2) (b) 1. e., 125.29 (5), 125.295,
11 125.69 (1) (d) and 139.01 (2c) and (2e) of the statutes; **relating to:** creating a
12 brewpub permit authorizing the manufacture and sale at wholesale of

1 fermented malt beverages, and authorizing other brewpub interests and
2 operations.

Analysis by the Legislative Reference Bureau

Under current law, alcohol beverages are generally distributed to consumers under a three-tier distribution system: the manufacturer may sell only to a wholesaler or rectifier; the wholesaler or rectifier may sell only to a wholesaler or to a retailer; the retailer may sell only to the consumer. With specific exceptions, no person may sell outside the three-tier system, and no person may sell alcohol beverages at retail unless the person possesses a license or permit authorizing the sale on the premises where sold.

Under current law, a brewer of fermented malt beverages (beer) must hold a permit issued by the Department of Revenue (DOR). A brewer's permit authorizes the brewer to manufacture, possess, and store beer on the brewery premises. A beer wholesaler's license, issued by a municipality, authorizes the license holder to sell to retailers or wholesalers beer in original packages that may not be consumed on the wholesaler's premises. A brewer may hold a wholesaler's license and may own, maintain, and operate a warehouse for which the brewer holds a wholesaler's license. The brewer may transport beer between the brewery premises and the brewer's warehouse. The brewer may sell beer at wholesale to beer retailers and beer wholesalers if the brewer holds a wholesaler's license. With various limitations discussed below, the brewer may sell beer at retail if the brewer holds a retailer's license. A brewer may also hold a limited intoxicating liquor wholesaler's permit, for wine only.

Under current law, a brewer may hold a Class "A" retail license, which authorizes the retail sale of beer in original packages for consumption off the licensed premises, but, with exceptions, may not hold a Class "B" license, which authorizes the retail sale of beer for consumption on or off the premises where sold. One exception allows a brewer to maintain and operate, and hold a Class "B" license for, one retail premises on brewery premises and one retail premises on property owned by the brewer or its subsidiary or affiliate. Under another exception, in addition to these two Class "B" licenses, a brewer may possess a Class "B" license for not more than four restaurants in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts if the brewer is a "small brewer" (generally one that manufactures less than 4,000 barrels of beer annually), the restaurant also sells other brewers' beer, and the brewer's own beer is purchased by the restaurant from an independent wholesaler. A brewer may hold both a wholesaler's license and Class "B" license but, with an exception for grandfathered licenses, may not hold both a wholesaler's license and a Class "A" license. A "Class B" license authorizes the retail sale of intoxicating 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 be issued only for a restaurant. Because a "Class B" license may be issued only to the holder of a Class "B" license, a brewer is limited in the number of "Class B" licenses it may hold.

Under current law, beer may not be sold, transported, or delivered to a Class "A" licensee or Class "B" licensee unless the beer is first unloaded at and distributed from a licensed beer wholesaler's warehouse, which generally must be at a location that is physically separate from any retail premises or brewery premises. However, there are a number of exceptions to this prohibition, including exceptions that apply to certain brewers that hold wholesale and retail licenses or that manufacture 50,000 barrels of beer or less annually. Also under current law, deliveries of beer to retailers may be made only by licensed wholesalers and must be made to retailers only at their retail premises. No retailer may transport beer from one retail premises to another retail premises to sell it unless a brewer operates both retail premises. Current law also requires, with limited exceptions, that beer wholesalers enter into written agreements with brewers supplying beer brands that grant to the wholesalers distribution rights within exclusive designated sales territories in order for the beer to be distributed, and further imposes requirements on the termination of these agreements. A brewer, in providing beer to its own retail premises, is not subject to restrictions on the sale, transportation, and delivery of beer generally applicable to wholesalers and retailers.

This bill creates a brewpub permit issued by DOR. An applicant is eligible to obtain a brewpub permit if all of the following apply:

1. The applicant manufactures not more than 10,000 barrels of beer each year.
2. The applicant's entire beer manufacturing process occurs on the brewpub premises.
3. The applicant operates a restaurant on the brewpub premises in which the sale of alcohol beverages accounts for less than 50 percent of the restaurant's gross receipts.
4. The applicant holds a Class "B" license for the restaurant and offers for sale in the restaurant, in addition to its own beer, beer manufactured by other brewers.
5. The applicant holds a business tax registration certificate issued by DOR.
6. The applicant does not hold or have an interest in a Class "A" license, a beer wholesaler's license, a brewer's permit, or an alcohol beverage, warehouse permit, and does not hold or have an interest in a Class "B," "Class B," or "Class C" license other than one for brewpub premises.

If an applicant for a brewpub permit has no current operations, the applicant can certify that the applicant will comply with these requirements prior to or upon commencing operations under the brewpub permit. If an applicant for a brewpub permit holds a brewer's permit, wholesale license, or any other prohibited license or permit at the time of the application, the applicant can certify that the applicant will surrender any such license or permit upon issuance of the brewpub permit.

A brewpub permit authorizes a brewpub to do all of the following:

1. Manufacture beer on the brewpub premises, up to 10,000 barrels each year for all brewpub premises, if the entire manufacturing process occurs on these premises.

2. Package in refillable containers exceeding 24 ounces in volume, on brewpub premises, beer that has been manufactured on these premises, and possess and store on brewpub premises any beer.

3. Transport beer that has been manufactured on the brewpub premises between these premises and any other brewpub premises or brewpub Class "B" premises.

4. Sell at wholesale, ship, transport, and deliver to wholesalers, from the brewpub premises, beer manufactured on these premises or on other brewpub premises.

5. Sell at wholesale, ship, transport, and deliver to retailers, from the brewpub premises, beer manufactured on these premises or on other brewpub premises, but only up to 1,000 barrels of beer each year, not including beer provided to the brewpub's own retail premises.

6. Sell alcohol beverages at retail on the brewpub premises in accordance with the terms of any Class "B," "Class B," or "Class C" license held by the brewpub.

A brewpub may not hold more than six permits for brewpub locations. A brewpub may hold only Class "B," "Class B," and "Class C" licenses for restaurants on brewpub premises.

Like the holder of a brewer's permit, a brewpub, in providing beer to its own retail premises, is not subject to restrictions on the sale, transportation, and delivery of beer generally applicable to wholesalers and retailers. However, a brewpub does not hold a wholesaler's license and may maintain wholesale operations, including the sale, transportation, and delivery to retailers if otherwise authorized, from its brewpub premises. To distribute its beer through licensed beer wholesalers, a brewpub must enter into written agreements with the wholesalers for each brewpub brand distributed providing exclusive designated sales territories to the wholesalers for these brands. A brewpub is also subject to certain requirements generally applicable to wholesalers when selling its own beer to unaffiliated retailers.

The bill also repeals the authorization for a small brewer to possess a Class "B" license for not more than four restaurants in which the sale of alcohol beverages accounts for less than 50 percent of the restaurant's gross receipts.

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

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

1 SECTION 1. 125.02 (2) of the statutes is amended to read:

2 125.02 (2) "Brewer" means any person who manufactures fermented malt

3 beverages for sale or transportation except that brewer does not include a permittee

4 under s. 125.295.

1 **SECTION 2.** 125.02 (2d) (intro.), (2h), (2p) and (2t) of the statutes are created to
2 read:

3 125.02 **(2d)** (intro.) "Brewer group" means a brewer, including all premises for
4 which the brewer holds a permit issued under s. 125.29, together with all of the
5 following:

6 **(2h)** "Brewpub" means a permittee under s. 125.295.

7 **(2p)** "Brewpub group" means a brewpub, including all premises for which the
8 brewpub holds a permit issued under s. 125.295, together with all of the following:

9 (a) All brewpubs that share membership with the brewpub in a controlled
10 group of brewpubs, as determined under 26 USC 5051 (a) (2) (B).

11 (b) All brewpubs considered with the brewpub as one taxpayer under 27 CFR
12 25.111b (b).

13 (c) All franchisees, as defined in s. 553.03 (5), of the brewpub.

14 (d) All franchisees, as defined in s. 553.03 (5), of the brewpub's franchisor, as
15 defined in s. 553.03 (6).

16 (e) The franchisor, as defined in s. 553.03 (6), of the brewpub.

17 **(2t)** "Brewpub premises" means any premises covered by a permit issued under
18 s. 125.295.

19 **SECTION 3.** 125.02 (21) of the statutes is amended to read:

20 125.02 **(21)** "Wholesaler" means a person, other than a brewer, brewpub,
21 manufacturer, or rectifier, who sells alcohol beverages to a licensed retailer or to
22 another person who holds a permit or license to sell alcohol beverages at wholesale.

23 **SECTION 4.** 125.04 (9) of the statutes is amended to read:

24 125.04 **(9)** SEPARATE LICENSE OR PERMIT REQUIRED. Except as provided under ss.
25 125.27 (2) (a) and 125.51 (5) (c) 1., wholesalers, manufacturers, rectifiers, brewers,

1 brewpubs, and retailers shall have a separate permit or license covering each
 2 location or premises, except a licensed public warehouse, from which deliveries and
 3 sales of alcohol beverages are made or at which alcohol beverages are stored.

4 **SECTION 5.** 125.06 (1) of the statutes is amended to read:

5 125.06 (1) BREWERS' AND BREWPUBS' PREMISES. The furnishing, by brewers or
 6 brewpubs, of fermented malt beverages free of charge to customers, visitors, and
 7 employees on, respectively, the brewery premises or brewpub premises if the
 8 fermented malt beverages are consumed on the brewery premises or brewpub
 9 premises and are not furnished or consumed in or near any room or place where
 10 intoxicating liquor is sold.

11 Please
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11 **SECTION 6.** 125.07 ~~(3)(b) 13~~ and (4) (bm) 1. of the statutes ^{is} amended to read:

12 125.07 ~~(3)(a) 13~~. An underage person who enters or remains in a banquet or
 13 hospitality room on brewery premises, or brewpub premises, operated under a Class
 14 "B" or "Class B" license for the purpose of attending a brewery or brewpub tour.

15 No
fr

15 (4) (bm) 1. A brewer or brewpub.

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

17 125.10 (4) REGULATION OF CLOSED RETAIL PREMISES. A municipality may not
 18 prohibit the permittee, licensee, employees, salespersons, employees of wholesalers
 19 licensed under s. 125.28 (1) or 125.54 (1); employees of permittees under s. 125.295
 20 with respect to the permittee's own retail premises; or service personnel from being
 21 present on premises operated under a Class "A", "Class A" or "Class C" license or
 22 under a Class "B" or "Class B" license or permit during hours when the premises are
 23 not open for business if those persons are performing job-related activities.

24 **SECTION 8.** 125.25 (2) (b) 5. of the statutes is created to read:

1 125.25 (2) (b) 5. A Class "A" license may not be issued to a person holding a
2 brewpub permit issued under s. 125.295 or to a person who has a direct or indirect
3 ownership interest in a premises operating under a brewpub permit issued under s.
4 125.295.

5 **SECTION 9.** 125.26 (2) (b) 1. of the statutes is amended to read:

6 125.26 (2) (b) 1. Except as provided in ~~s.~~ ss. 125.295 and 125.31, Class "B"
7 licenses may not be issued to brewers or brewpubs.

8 **SECTION 10.** 125.28 (2) (b) 1. e. of the statutes is created to read:

9 125.28 (2) (b) 1. e. A brewpub permit issued under s. 125.295.

10 **SECTION 11.** 125.28 (2) (b) 2. of the statutes is amended to read:

11 125.28 (2) (b) 2. A person who has a direct or indirect ownership interest in a
12 premises operating under one or more of the licenses or permits listed in subd. 1. a.
13 to ~~d.~~ e.

14 **SECTION 12.** 125.29 (5) of the statutes is created to read:

15 125.29 (5) BREWPUBS. No person holding a brewpub permit under s. 125.295
16 may register as a brewer under this section.

17 **SECTION 13.** 125.295 of the statutes is created to read:

18 **125.295 Brewpub permits.** (1) The department shall issue brewpub permits
19 to eligible applicants authorizing all of the following:

20 (a) The manufacture of fermented malt beverages on the brewpub premises if
21 the entire manufacturing process occurs on these premises and not more than 10,000
22 barrels of fermented malt beverages are manufactured in a calendar year by the
23 permittee's brewpub group.

1 (b) The packaging in refillable containers exceeding 24 ounces in volume, at the
2 request of a customer and on brewpub premises, of fermented malt beverages that
3 have been manufactured on these premises.

4 (c) The possession and storage of any fermented malt beverages on brewpub
5 premises.

6 (d) The transportation of fermented malt beverages that have been
7 manufactured on the brewpub premises between these premises and any other
8 brewpub premises or Class "B" premises of the brewpub.

9 (e) Subject to s. 125.34 (3) and (4), the sale at wholesale, shipment,
10 transportation, and delivery, in original unopened packages or containers, to
11 wholesalers, from the brewpub premises, of fermented malt beverages that have
12 been manufactured on these premises or on other brewpub premises of the brewpub.

13 (f) The sale at wholesale, shipment, transportation, and delivery, in original
14 unopened packages or containers, to retailers, from the brewpub premises, of
15 fermented malt beverages that have been manufactured on these premises or on
16 other brewpub premises of the brewpub. A brewpub's brewpub group may not sell,
17 ship, transport, or deliver more than a total of 1,000 barrels of fermented malt
18 beverages in any calendar year to retailers under this paragraph. Fermented malt
19 beverages provided by a brewpub to any retail premises for which the brewpub holds
20 the retail license shall not be included in any calculation of the 1,000 barrel
21 limitation under this paragraph. Deliveries and shipments of fermented malt
22 beverages by a brewpub under this paragraph shall be made to retailers only at their
23 retail premises. Any retailer receiving such a delivery or shipment is subject to the
24 prohibition under s. 125.34 (5) against further transporting the delivery or shipment
25 to any other retail premises.

1 (g) The sale of alcohol beverages at retail on the brewpub premises in
2 accordance with the terms of any retail license specified in subs. (2) (a) 4. and (3) (b)
3 and (c).

4 (h) Notwithstanding s. 125.33 (1), the ownership, maintenance, and operation
5 of places for the sale of fermented malt beverages at the state fair park or on any
6 county fairgrounds located in this state if the fermented malt beverages have been
7 manufactured by the brewpub.

8 (2) (a) An applicant is eligible for a brewpub permit only if all of the following
9 apply:

10 1. The applicant's brewpub group manufactures a total of not more than 10,000
11 barrels of fermented malt beverages in a calendar year.

12 2. The applicant's entire process for manufacturing fermented malt beverages
13 under the permit occurs on the premises for which the permit is issued.

14 3. The applicant operates a restaurant on the premises for which the permit
15 is issued, for which a restaurant permit is issued under s. 254.64 and in which the
16 sale of alcohol beverages accounts for less than 50 percent of the gross receipts of all
17 of the food and beverages served in the restaurant on a calendar year basis.

18 4. The applicant holds a Class "B" license for the restaurant identified in subd.
19 3. and, on these Class "B" premises, offers for sale, in addition to fermented malt
20 beverages manufactured by the applicant, fermented malt beverages manufactured
21 by a brewer other than the applicant and its brewpub group.

22 5. The applicant holds a valid certificate issued under s. 73.03 (50).

23 6. Neither the applicant nor the applicant's brewpub group holds, or has a
24 direct or indirect ownership interest in a premises operating under, any of the
25 following:

1 a. A Class "A" license issued under s. 125.25.

2 b. Except as provided in subd. 4. and subs. (1) (g) and (3) (b), a Class "B" license
3 issued under s. 125.26.

4 c. A wholesaler's license issued under s. 125.28.

5 d. A brewer's permit issued under s. 125.29.

6 e. Except as provided in subs. (1) (g) and (3) (c), a "Class B" license or permit
7 or "Class C" license issued under s. 125.51.

8 f. An alcohol beverage warehouse permit issued under s. 125.19.

9 (b) If an applicant under par. (a) has no current operations, the applicant may
10 certify that the applicant has applied for or will apply for a Class "B" license or
11 restaurant permit or will comply with any other requirement under par. (a), prior to
12 or upon commencing operations authorized under this section. If a Class "B" license
13 or restaurant permit is not subsequently issued to the applicant, or if the applicant
14 otherwise fails to comply with any requirement for eligibility under par. (a), the
15 department may revoke under s. 125.12 (5) the permit issued under this section.

16 (c) If an applicant under par. (a) holds any license or permit prohibited under
17 par. (a) 6. at the time of its application, the applicant may certify that the applicant
18 will surrender any such license or permit upon issuance of a permit under this
19 section. If the department issues a permit under this section and the applicant fails
20 to surrender any license or permit prohibited under par. (a) 6., the department may
21 revoke under s. 125.12 (5) the permit issued under this section. An applicant is not
22 required to surrender any Class "B" license issued under s. 125.31 (1) (a) 2. or under
23 s. 125.31 (1) (a) 3., 2005 stats., if the applicant's continued possession of the license
24 is consistent with subs. (1) (g), (2) (a) 4., and (3) (b) and (c).

1 **(3)** (a) No brewpub group may hold more than 6 brewpub permits issued under
2 this section.

3 (b) A brewpub may not hold any Class "B" license other than one issued for a
4 restaurant on the brewpub premises. Notwithstanding s. 125.26 (2) (a), each
5 Class "B" license shall be issued for the brewpub's restaurant in the same name as
6 the permittee under this section. Notwithstanding s. 125.33 (1), a brewpub may own
7 the furniture, fixtures, fittings, furnishings, and equipment on the Class "B"
8 premises and shall pay any license fee or tax required for the operation of the
9 premises.

10 (c) Subject to the requirements specified in s. 125.51 (3) and (3m), a brewpub
11 may also hold "Class B" licenses and "Class C" licenses, but only for restaurants on
12 brewpub premises.

13 **(4)** The fee established by the department for a brewpub permit shall not
14 exceed the fee established by the department for a permit under s. 125.29.

15 **SECTION 14.** 125.31 (1) (a) 1. (intro.) of the statutes is repealed.

16 **SECTION 15.** 125.31 (1) (a) 1. a. to e. of the statutes are renumbered 125.02 (2d)
17 (a) to (e).

18 **SECTION 16.** 125.31 (1) (a) 2. of the statutes is amended to read:

19 125.31 (1) (a) 2. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may
20 maintain and operate one place on brewery premises and one place on real estate
21 owned by the brewer or a subsidiary or affiliate corporation or limited liability
22 company for the sale of fermented malt beverages for which a Class "B" license is
23 required for each place, but, except as provided in ~~subds. 3. and subd. 4.~~, not more
24 than 2 such Class "B" licenses shall be issued to any brewer.

25 **SECTION 17.** 125.31 (1) (a) 3. of the statutes is repealed.

1 **SECTION 18.** 125.31 (1) (a) 4. of the statutes is amended to read:

2 125.31 (1) (a) 4. Notwithstanding ss. 125.29 (2) and 125.33 (1), in addition to
3 places authorized under subd. 2., a brewer may possess or hold an indirect interest
4 in a Class "B" license for not more than 20 restaurants in each of which the sale of
5 alcohol beverages accounts for less than 60% of the restaurant's gross receipts if no
6 fermented malt beverages manufactured by the brewer are offered for sale in any of
7 these restaurants. ~~No brewer may possess Class "B" licenses under both this~~
8 ~~subdivision and subd. 3.~~

9 **SECTION 19.** 125.32 (5) and (7) (a) of the statutes are amended to read:

10 125.32 (5) SIGNS NEAR TAPS AND BRANDS ON TAP; CLASS "B" PREMISES. Every Class
11 "B" licensee or permittee selling or offering for sale draught fermented malt
12 beverages shall display a sign on or near each tap or faucet disclosing the brand of
13 fermented malt beverage drawn from the tap or faucet and the name of its the brewer
14 or brewpub that manufactured it. No Class "B" licensee or permittee may substitute
15 any other brand of fermented malt beverage in place of the brand designated on the
16 sign with the intent to defraud or deceive the customer.

17 (7) (a) No fermented malt beverages may be sold, offered, or exposed for sale,
18 kept in possession with intent to sell, or served on any premises for which a license
19 or permit for the sale of fermented malt beverages has been issued unless each
20 barrel, keg, cask, bottle, or other container bears a label or other identification with
21 the name and address of the brewer or brewpub that manufactured it. The
22 possession of any fermented malt beverages which are not so identified on any
23 premises for which a license or permit for the sale of fermented malt beverages has
24 been issued is prima facie evidence that the fermented malt beverages are possessed
25 with intent to sell, offer for sale, display for sale, or give away.

① SECTION 20. 125.33 (title), (1), (2) (intro.), (a), (d), (j), (k), (L) 2., 3. and 4., (n)
② 2. and (p) 1., (2s), (6), (7) (a) 1. a. and b., (b), (c) and (d), (7m), (8), (9), (10) (a) 1. to
③ 4., (b) and (c) 1. and 3. and (11) of the statutes are amended to read:

4 **125.33 (title) Restrictions on dealings between brewers, brewpubs,**
5 **wholesalers, and retailers. (1) FURNISHING THINGS OF VALUE. (a) Except as**
6 provided in this section and ~~s.~~ ss. 125.295 and 125.31, no brewer, brewpub, or
7 wholesaler may furnish, give, lend, lease, or sell any furniture, fixtures, fittings,
8 equipment, money, or other thing of value to any campus or Class "B" licensee or
9 permittee, or to any person for the use, benefit, or relief of any campus or Class "B"
10 licensee or permittee, or guarantee the repayment of any loan or the fulfillment of
11 any financial obligation of any campus or Class "B" licensee or permittee. Such
12 actions may not be taken by the brewer, brewpub, or wholesaler directly or indirectly,
13 or through a subsidiary or affiliate corporation or limited liability company, or by any
14 officer, director, stockholder, partner, or member thereof.

15 (b) No brewer, brewpub, or wholesaler may enter into any agreement whereby
16 any campus or Class "B" licensee or permittee is required to purchase the fermented
17 malt beverages of any brewer or brewpub to the exclusion of those manufactured by
18 other brewers or brewpubs. Such contracts may not be entered into by the brewer,
19 brewpub, or wholesaler, directly or indirectly, or through a subsidiary or an affiliate
20 corporation or limited liability company, or by any officer, director, stockholder,
21 partner, or member thereof.

22 (2) EXCEPTIONS. (intro.) Notwithstanding the prohibitions in sub. (1), a brewer,
23 brewpub, or wholesaler may:

24 (a) Give to any campus or Class "B" licensee or permittee, at any given time,
25 for placement inside the premises, signs, clocks, or menu boards with an aggregate

1 value of not more than \$2,500. If a gift of any item would cause the \$2,500 limit to
2 be exceeded, the recipient shall pay the brewer, brewpub, or wholesaler the amount
3 of the item's value in excess of \$2,500. Each recipient shall keep an invoice or credit
4 memo containing the name of the donor and the number and value of items received
5 under this paragraph. The value of an item is its cost to the donor. Each recipient
6 shall make the records kept under this paragraph available to the department for
7 inspection upon request.

8 (d) Sell to a campus or Class "B" licensee or permittee at fair market value
9 equipment designed and intended to preserve and maintain the sanitary dispensing
10 of fermented malt beverages or any services necessary to maintain this kind of
11 equipment. A brewer, brewpub, or wholesaler shall charge the same price per unit
12 of equipment to each campus or Class "B" licensee or permittee making the same or
13 a similar purchase, and shall charge the same rate to each campus or Class "B"
14 licensee or permittee purchasing maintenance services under this subdivision. Each
15 brewer, brewpub, or wholesaler shall keep records of each transaction under this
16 subdivision and shall make the records available to the department upon request.

17 (j) Contribute money or other items of value to, or purchase advertising from,
18 an institution of higher education which is exempt under section 501 (c) (3) of the
19 internal revenue code, as defined in s. 71.22 (4), if the contribution or purchase is for
20 a purpose other than the use, benefit, or relief of premises or operations for the sale
21 of fermented malt beverages and is not contingent either upon the use of the product
22 of the brewer, brewpub, or wholesaler by the institution or upon an agreement by the
23 institution wholly or partly to exclude from sale the products of a competing brewer,
24 brewpub, or wholesaler.

1 (k) Contribute money or other items of value, or purchase advertising from, a
2 campus if the contribution or purchase is for a purpose other than the use, benefit,
3 or relief of premises or operations for the sale of fermented malt beverages and is not
4 contingent either upon the use of the product of the brewer, brewpub, or wholesaler
5 by the campus or upon an agreement by the campus partly or wholly to exclude from
6 sale the products of a competing brewer, brewpub, or wholesaler.

7 (L) 2. Purchase advertising from a person who does not hold a license under this
8 chapter and who conducts national or regional sweepstakes, contests, or promotions
9 on the premises of Class "B" licensees or permittees that sell the brewer's, brewpub's,
10 or wholesaler's products. The person may promote an event or activity in connection
11 with a sweepstakes, contest, or promotion, including promoting the location of the
12 event or activity, if the Class "B" licensee or permittee on whose premises the event
13 or activity will occur does not receive money for hosting the event or activity and,
14 except as provided in subd. 4., if the advertising for the event or activity identifies
15 at least 4 unaffiliated Class "B" licensees or permittees.

16 3. Conduct national or regional sweepstakes, contests, or promotions on the
17 premises of Class "B" licensees or permittees that sell the brewer's, brewpub's, or
18 wholesaler's products. The brewer, brewpub, or wholesaler may promote an event
19 or activity in connection with a sweepstakes, contest, or promotion, including
20 promoting the location of the event or activity, if the Class "B" licensee or permittee
21 on whose premises the event or activity will occur does not receive money for hosting
22 the event or activity and, except as provided in subd. 4., if the advertising for the
23 event or activity identifies at least 4 unaffiliated Class "B" licensees or permittees.

24 4. A brewer that manufactures less than 30,000 barrels of fermented malt
25 beverages annually, or a brewpub, may purchase advertising under subd. 2, and may

1 promote sweepstakes, contests, or promotions through advertising under subd. 3.,
2 if the advertising identifies at least one Class "B" licensee or permittee.

3 (n) 2. Notwithstanding subd. 1., no brewer, brewpub, or wholesaler may
4 provide business entertainment to a Class "B" licensee or permittee under subd. 1.
5 in one day that has a value exceeding \$500, and no brewer, brewpub, or wholesaler
6 may provide business entertainment to a Class "B" licensee or permittee under subd.
7 1. on more than 8 days in any calendar year.

8 (p) 1. Have present not more than 3 individuals representing the brewer or
9 brewpub at a fermented malt beverages tasting event that lasts 2 days or less and
10 at which taste samples of fermented malt beverages brewed or sold by at least 5
11 different brewers or brewpubs are offered for consumption by persons who either pay
12 for the taste samples or pay a charge for admission to the event. Any individual
13 representing a brewer or brewpub shall confine his or her activities on the premises
14 to ensuring the integrity of, providing information about, and dispensing the
15 brewer's or brewpub's fermented malt beverages.

16 (2s) EXCEPTION FOR RETAIL TRADE ASSOCIATION CONTRIBUTIONS. Notwithstanding
17 the prohibitions in sub. (1), a brewer, brewpub, or wholesaler may contribute money
18 or other things of value to a bona fide national, statewide, or local trade association
19 that derives its principal income from membership dues of Class "B" licensees.

20 (6) VOLUME DISCOUNTS TO RETAILERS. Wholesalers of fermented malt beverages,
21 and brewpubs with respect to sales of fermented malt beverages authorized under
22 s. 125.295 (1) (f), shall charge the same price to all campuses and retail licensees and
23 permittees making purchases in similar quantities. Any discount offered on
24 fermented malt beverages shall be delivered to the retailer in a single transaction
25 and single delivery, and on a single invoice.

1 (7) (a) 1. a. Receive, purchase, or acquire fermented malt beverages from any
2 licensee, or from any brewpub acting under authority of s. 125.295 (1) (f), except for
3 cash or credit for a period of not more than 15 days.

4 b. Receive, purchase, or acquire fermented malt beverages from any licensee
5 or permittee, or from any brewpub acting under authority of s. 125.295 (1) (f), if at
6 the time of the receipt, purchase, or acquisition he or she is indebted to any licensee
7 or, permittee, or brewpub for fermented malt beverages received, purchased,
8 acquired, or delivered more than 15 days earlier.

9 (b) *Restrictions on issuance of licenses and permits.* No Class "A" or Class "B"
10 license or permit may be issued to a person having an indebtedness for fermented
11 malt beverages outstanding for more than 15 days. In each application for a Class
12 "A" or Class "B" license or permit, the applicant shall state whether he or she has
13 indebtedness for fermented malt beverages to any licensee or, permittee, or brewpub
14 which has been outstanding for more than 15 days.

15 (c) *Wholesalers and brewpubs holding retail licenses and permits.* For purposes
16 of this subsection, a person holding both a fermented malt beverage wholesale
17 license and a fermented malt beverage retail license is deemed a fermented malt
18 beverage retailer. For purposes of this subsection, a brewpub, when acting under
19 authority of a retail license with respect to fermented malt beverages not
20 manufactured by the brewpub, is deemed a fermented malt beverages retailer. This
21 paragraph does not affect any provision of this subsection with respect to a brewpub
22 acting under authority of s. 125.295 (1) (f).

23 (d) *Penalties.* A retail licensee or permittee who violates this subsection is
24 subject to the penalties under s. 125.11 except that he or she may not be imprisoned.
25 No brewer, brewpub, or wholesaler may be subjected to any penalty as the result of

1 the sale of fermented malt beverages to a campus or retail licensee or permittee when
2 purchased by the campus or retail licensee or permittee in violation of this
3 subsection.

4 (7m) CONDITIONAL PURCHASES. No Class "A" or Class "B" licensee may condition
5 the purchase of fermented malt beverages from a brewer, brewpub, or wholesaler
6 upon the furnishing by the brewer, brewpub, or wholesaler of any thing of value,
7 other than the products purchased, to the licensee or to any person for the use,
8 benefit, or relief of the licensee.

9 (8) EXCLUSIVE SALES BY WHOLESALER. A wholesaler may not sell or offer to sell
10 a brand of fermented malt beverages exclusively to one Class "A" licensee or to a
11 group of Class "A" licensees affiliated through common ownership, management or
12 control, unless the brand of fermented malt beverages is produced by a brewer which
13 that produces less than 300,000 barrels of fermented malt beverages in a calendar
14 year or by a brewpub.

15 (9) CAMPUSES AND RETAILERS TO PURCHASE FROM WHOLESALERS. No Except as
16 provided in s. 125.295 (1) (f), no campus or retail licensee or permittee may purchase
17 or possess fermented malt beverages purchased from any person other than a
18 wholesaler holding a license under this chapter for the sale of fermented malt
19 beverages. Any person who violates this subsection may be fined not more than
20 \$10,000 or imprisoned for not more than 9 months or both.

21 (10) (a) 1. "Brand" means any word, name, group of letters, symbols, or
22 combination thereof, including the name of the brewer or brewpub if the brewer's or
23 brewpub's name is also a significant part of the product name, adopted and used by
24 a brewer or brewpub to identify a specific fermented malt beverage product and to

1 distinguish that product from other fermented malt beverages produced by that
2 brewer or brewpub or other brewers or brewpubs.

3 2. "Discontinued brand" means, with respect to a terminated wholesaler, any
4 brand of fermented malt beverages for which a brewer, brewpub, brewer's agent,
5 brewpub's agent, or holder of an out-of-state shipper's permit has terminated,
6 cancelled, or failed to renew an agreement, whether oral or written, with the
7 wholesaler to supply that brand.

8 3. "Successor wholesaler" means any wholesaler who enters into an agreement,
9 whether oral or written, to obtain a supply of a brand of fermented malt beverages
10 from a brewer, brewpub, brewer's agent, brewpub's agent, or holder of an
11 out-of-state shipper's permit after the brewer, brewpub, brewer's agent, brewpub's
12 agent, or holder of an out-of-state shipper's permit has terminated, cancelled, or
13 failed to renew an agreement, whether oral or written, with a terminated wholesaler
14 to supply that same brand of fermented malt beverages.

15 4. "Terminated wholesaler" means a wholesaler with whom a brewer, brewpub,
16 brewer's agent, brewpub's agent, or holder of an out-of-state shipper's permit has
17 terminated, cancelled, or failed to renew an agreement, whether oral or written, to
18 supply a brand of fermented malt beverages to that wholesaler.

19 (b) Except as provided in par. (c) and subject to pars. (d) and (e), a successor
20 wholesaler shall compensate a terminated wholesaler for the fair market value of the
21 terminated wholesaler's distribution rights to any discontinued brand of fermented
22 malt beverages assumed by the successor wholesaler for the same territory, less any
23 amount paid to the terminated wholesaler by the brewer, brewpub, brewer's agent,
24 brewpub's agent, or holder of an out-of-state shipper's permit for the discontinued
25 brand. If the terminated wholesaler's distribution rights to any discontinued brand

1 of fermented malt beverages are divided among 2 or more successor wholesalers,
2 each successor wholesaler shall compensate the terminated wholesaler for the fair
3 market value of the distribution rights to any discontinued brand of fermented malt
4 beverages assumed by that successor wholesaler for the applicable part of the same
5 territory, less any amount paid to the terminated wholesaler by the brewer, brewpub,
6 brewer's agent, brewpub's agent, or holder of an out-of-state shipper's permit for the
7 discontinued brand. A terminated wholesaler may not receive under this paragraph
8 total compensation from the successor wholesaler and brewer, brewpub, brewer's
9 agent, brewpub's agent, or holder of an out-of-state shipper's permit that exceeds
10 the fair market value of the terminated wholesaler's distribution rights specified
11 under this paragraph.

12 (c) 1. The wholesaler or a principal of the wholesaler engaged in material
13 fraudulent conduct or made substantial misrepresentations in its dealings with the
14 brewer, brewpub, brewer's agent, brewpub's agent, or holder of an out-of-state
15 shipper's permit or with others regarding any brand of the brewer, brewpub,
16 brewer's agent, brewpub's agent, or holder of an out-of-state shipper's permit.

17 3. The wholesaler or a principal of the wholesaler knowingly distributed any
18 brand of the brewer, brewpub, brewer's agent, brewpub's agent, or holder of an
19 out-of-state shipper's permit outside the territory authorized by the brewer,
20 brewpub, brewer's agent, brewpub's agent, or holder of an out-of-state shipper's
21 permit for distribution of the brand.

22 (11) SOURCE OF FERMENTED MALT BEVERAGES. (a) Subject to s. 125.34 (3), no
23 wholesaler who holds a retail license issued under this chapter may sell a brand of
24 fermented malt beverages to another retail licensee unless the wholesaler has an
25 agreement for general wholesale distribution of that brand of fermented malt

1 beverages with the brewer, brewpub, brewer's agent, brewpub's agent, or holder of
2 an out-of-state shipper's permit supplying that brand.

3 (b) If a wholesaler who holds a retail license issued under this chapter violates
4 par. (a), any other wholesaler aggrieved by such violation or the brewer or brewpub
5 may bring an action against such wholesaler in any court of competent jurisdiction
6 for damages sustained by the aggrieved wholesaler or the brewer or brewpub as a
7 consequence of the violation, together with the actual costs of the action.
8 Notwithstanding s. 814.04 (1), a wholesaler or the brewer or brewpub who prevails
9 in an action under this paragraph may recover reasonable actual attorney fees
10 incurred in the action.

11 **SECTION 21.** 125.34 (title), (1) (a) and (c), (2) (a), (b)^g and (bm), (3) (a) 1. and
12 2., (4) (a) and (5) of the statutes are amended to read:

13 **125.34 (title) Distribution restrictions on wholesalers, brewers,**
14 **brewpubs, and out-of-state shippers.**

15 **(1) (a)** "Brand" means any word, name, group of letters, symbol, or combination
16 thereof, including the name of the brewer, brewpub, or out-of-state shipper if the
17 brewer's, brewpub's, or out-of-state shipper's name is also a significant part of the
18 product name, adopted and used by a brewer, brewpub, or out-of-state shipper to
19 identify a specific fermented malt beverage product and to distinguish that product
20 from other fermented malt beverages produced by that brewer, brewpub, or
21 out-of-state shipper or other brewers, brewpubs, or out-of-state shippers.

22 (c) "Designated sales territory" means the geographical area identified in a
23 written agreement between a wholesaler and a brewer, brewpub, or out-of-state
24 shipper under which the wholesaler is authorized to distribute one or more brands

1 of fermented malt beverages supplied by the brewer, brewpub, or out-of-state
2 shipper.

3 (2) (a) ~~No~~ Except as provided in sub. (6) (b) and s. 125.295 (1) (d) and (f), no
4 fermented malt beverages may be sold, transported, or delivered to a retailer unless,
5 prior to such sale, transport, or delivery, the fermented malt beverages are first
6 unloaded at and distributed from a wholesaler's warehouse premises covered by both
7 a wholesaler's license issued under s. 125.28 and an alcohol beverage warehouse
8 permit issued under s. 125.19, which premises shall be in this state and shall be a
9 physically separate location from any retail premises or brewery premises. This
10 paragraph does not apply to a wholesaler issued a wholesaler's license under s.
11 125.28 (1) (b) with respect to fermented malt beverages transported and delivered
12 from a warehouse in an adjoining state unless the wholesaler's warehouse in the
13 adjoining state is located on premises in the adjoining state used for the manufacture
14 of fermented malt beverages.

15 (bg) Notwithstanding par. (a), a brewer that, together with ~~the fermented malt~~
16 ~~beverages manufactured during the same year by all producers identified in s.~~
17 ~~125.31 (1) (a) 1. a. to e. its brewer group~~, manufactures not more than 50,000 barrels
18 of fermented malt beverages in a calendar year in any location may be issued a
19 wholesaler's license for wholesale premises located on brewery premises.

20 (bm) Notwithstanding par. (a), a brewer that, together with ~~the fermented malt~~
21 ~~beverages manufactured during the same year by all producers identified in s.~~
22 ~~125.31 (1) (a) 1. a. to e. its brewer group~~, manufactures more than 50,000 barrels of
23 fermented malt beverages in a calendar year in any location may be issued a
24 wholesaler's license for wholesale premises located on brewery premises but may not
25 sell or ship more than a total of 1,000 barrels of fermented malt beverages in any

1 calendar year to retailers from these wholesale premises. Fermented malt beverages
2 provided by a brewer to any retail premises for which the brewer holds the retail
3 license shall not be included in any calculation of the 1,000 barrel limitation under
4 this paragraph.

5 (3) (a) 1. Subject to subd. 3., a wholesaler may not sell, transport, or deliver any
6 brand of fermented malt beverages unless the wholesaler has entered into a written
7 agreement with the brewer, brewpub, or out-of-state shipper supplying the brand
8 that grants to the wholesaler distribution rights for the brand and identifies the
9 designated sales territory for which such distribution rights are granted, including
10 the precise geographical area comprising the designated sales territory.

11 2. A brewer, brewpub, or out-of-state shipper may not, in any agreement under
12 this paragraph, grant to more than one wholesaler distribution rights for the same
13 brand in the same designated sales territory or in any part of the same designated
14 sales territory.

15 (4) (a) Any retailer located outside the wholesaler's designated sales territory
16 for the brand. This paragraph does not apply if another wholesaler that has been
17 granted distribution rights for the brand in the designated sales territory where the
18 sale, transportation, or delivery occurs is unable to service this designated sales
19 territory and the brewer, brewpub, or out-of-state shipper granting distribution
20 rights has, notwithstanding sub. (3) (a), given consent for the sale, transportation,
21 or delivery, which consent shall be limited to the time period that another wholesaler
22 is unable to service this designated sales territory. This paragraph does not apply if
23 the wholesaler is also a brewer and another wholesaler to whom this brewer has
24 granted distribution rights for the brand in the designated sales territory where the

1 sale, transportation, or delivery occurs has, notwithstanding sub. (3) (a), given
2 consent for the sale, transportation, or delivery or refused to service this territory.

3 (5) Deliveries Except as provided in sub. (6) (b) and s. 125.295 (1) (d) and (f),
4 deliveries of fermented malt beverages to retailers may be made only by wholesalers
5 and shall be made to retailers only at their retail premises. No retailer may transport
6 fermented malt beverages from one retail premises to another retail premises for
7 purposes of selling the fermented malt beverages at the other retail premises unless
8 both retail premises are operated by a brewer or brewpub holding the retail licenses.

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

10 125.54 (1) AUTHORIZED ACTIVITIES. The department shall issue wholesalers'
11 permits authorizing the permittee to sell intoxicating liquor at wholesale from the
12 premises described in the permit. Except as provided under s. 125.69 (1) (b) 3., the
13 permittee may not sell intoxicating liquor for consumption on the premises. If a
14 wholesale permit is issued to a brewery brewer that holds a "Class B" license, the
15 permit shall authorize the wholesale sale of wine only. Possession of a permit under
16 this section does not authorize the permittee to sell tax-free intoxicating liquor and
17 wine brought into this state under s. 139.03 (5).

18 **SECTION 23.** 125.69 (1) (d) of the statutes is created to read:

19 125.69 (1) (d) Except as provided in s. 125.295 (3) (c), no brewpub may hold any
20 direct or indirect interest in any "Class B" license or permit or establishment or
21 "Class C" license or establishment.

22 **SECTION 24.** 139.01 (1) and (2) of the statutes are amended to read:

23 139.01 (1) "Bottler" means any person other than a brewer or brewpub who
24 places fermented malt beverages in bottles or similar containers.

1 (2) "Brewer" means any person who manufactures fermented malt beverages
2 for sale or transportation except that brewer does not include a permittee under s.
3 125.295.

4 **SECTION 25.** 139.01 (2c) and (2e) of the statutes are created to read:

5 139.01 (2c) "Brewpub" means a permittee under s. 125.295.

6 (2e) "Brewpub premises" means any premises covered by a permit issued
7 under s. 125.295.

8 **SECTION 26.** 139.04 (2) of the statutes is amended to read:

9 139.04 (2) Furnishing by a brewer or brewpub of fermented malt beverages to
10 workmen employed in the brewery or brewpub for consumption on the brewery
11 premises or brewpub premises without charge.

12 **SECTION 27.** 139.08 (4) of the statutes is amended to read:

13 139.08 (4) INSPECTION FOR ENFORCEMENT. Duly authorized employees of the
14 department of justice and the department of revenue and any sheriff, police officer,
15 marshal, or constable, within their respective jurisdictions, may at all reasonable
16 hours enter any licensed premises, and examine the books, papers, and records of
17 any brewer, brewpub, manufacturer, bottler, rectifier, wholesaler, or retailer, for the
18 purpose of inspecting the same and determining whether the tax and fee imposed by
19 ss. 139.01 to 139.25 have been fully paid, and may inspect and examine, according
20 to law, any premises where fermented malt beverages or intoxicating liquors are
21 manufactured, sold, exposed for sale, possessed, or stored, for the purpose of
22 inspecting the same and determining whether the tax imposed by ss. 139.01 to
23 139.25 has been fully paid, and whether ss. 139.01 to 139.25 and ch. 125 are being
24 complied with. Any refusal to permit such examination of such premises is sufficient
25 grounds under s. 125.12 for revocation or suspension of any license or permit granted

1 for the sale of any fermented malt beverages or intoxicating liquors and is punishable
2 under s. 139.25 (10).

3 **SECTION 28.** 139.09 of the statutes is amended to read:

4 **139.09 Registration.** Every brewer, brewpub, bottler, manufacturer, rectifier,
5 wholesaler, or retailer liable for payment of the occupational tax imposed in ss.
6 139.01 to 139.25 shall hold a valid certificate under s. 73.03 (50). The secretary shall
7 assign the person a registration number.

8 **SECTION 29.** 139.11 (2), (3) and (4) of the statutes are amended to read:

9 139.11 (2) REPORT. Each brewer, brewpub, bottler, manufacturer, rectifier, and
10 wholesaler shall on or before the 15th day of each calendar month or the dates
11 prescribed by the secretary file a verified report of all fermented malt beverages or
12 intoxicating liquor manufactured, received, sold, delivered, or shipped by him or her
13 during the preceding calendar month, except that the department may allow
14 wholesale, winery, and out-of-state shipper permittees whose tax liability is less
15 than \$500 per quarter to file on a quarterly basis. Quarterly reports shall be filed
16 on or before the 15th of the next month following the close of the calendar quarter.

17 (3) SECRETARY'S POWERS. When the secretary finds that the records kept by any
18 brewer, brewpub, bottler, manufacturer, rectifier, wholesaler, or retailer are in such
19 condition ~~than~~ that an unusual amount of time is required to determine therefrom
20 the amount of tax due, the secretary may give notice of such fact to such person and
21 may require the records to be kept in such form as the secretary prescribes. If such
22 requirements are not complied with within 30 days after the date of the notice, the
23 brewer, brewpub, bottler, manufacturer, rectifier, wholesaler, or retailer shall pay
24 the expenses reasonably attributable to the determination of tax at the rate of \$30
25 per day for each auditor. The secretary shall render a bill therefor by registered mail

1 to the person charged with payment at the conclusion of the audit, which bill shall
2 constitute notice of assessment and demand of payment thereof. The brewer,
3 brewpub, bottler, manufacturer, rectifier, wholesaler, or retailer shall, within 10
4 days after the mailing of the bill, pay its amount, and such payment shall be credited
5 to the appropriation made in s. 20.566 (1) (a).

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

14 **SECTION 30.** 139.18 (1) of the statutes is amended to read:

15 139.18 (1) The possession of any fermented malt beverages on any licensed
16 premises, other than upon the premises of a brewer, brewpub, or bottler, shall be
17 deemed prima facie evidence that such products are kept with intent to sell and that
18 such products are subject to the tax herein imposed.

19 **SECTION 31.** 139.22 of the statutes is amended to read:

20 **139.22 Confiscation.** If a duly authorized employee of the department of
21 revenue or the department of justice or any sheriff, police officer, marshal, or
22 constable, within his or her respective jurisdiction, discovers any fermented malt
23 beverages upon any premises other than the premises of a brewer, brewpub, or
24 bottler, or any intoxicating liquor upon any premises other than the premises of a
25 manufacturer, rectifier, winery, or wholesaler, and upon which the tax has not been

1 paid or which was possessed, kept, stored, manufactured, sold, distributed, or
2 transported in violation of ss. 139.01 to 139.25 and ch. 125, the employee or any such
3 officer may immediately seize the fermented malt beverages or intoxicating liquors.
4 Any such fermented malt beverages or intoxicating liquors so seized shall be held by
5 the department of revenue and disposed of under s. 125.14 (2) (e).

6 **SECTION 32.** 346.93 (1) of the statutes is amended to read:

7 346.93 (1) No underage person, as defined under s. 125.02 (20m), may
8 knowingly possess, transport, or have under his or her control any alcohol beverage
9 in any motor vehicle unless the person is employed by a brewer, ~~an~~, brewpub, alcohol
10 beverage licensee, wholesaler, retailer, distributor, manufacturer, or rectifier and is
11 possessing, transporting, or having such beverage in a motor vehicle under his or her
12 control during his or her working hours and in the course of employment, as provided
13 under s. 125.07 (4) (bm).

14 **SECTION 33. Effective date.**

15 (1) This act takes effect on the 30th day beginning after publication.

16 (END)