



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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

Date Transfer Requested: 02/20/2007 (Per: ARG)





Appendix B

 The 2007 drafting file for LRB-1168/P1

has been copied/added to the drafting file for

2007 LRB 07-1983

 The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

2007 DRAFTING REQUEST**Bill**Received: **12/18/2006**Wanted: **As time permits**For: **Fred Risser (608) 266-1627**This file may be shown to any legislator: **NO**

May Contact:

Subject: **Beverages**Submit via email: **YES**Requester's email: **Sen.Risser@legis.wisconsin.gov**Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**Received By: **agary**

Identical to LRB:

By/Representing: **Terry Tuschen (aide)**Drafter: **agary**

Addl. Drafters:

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Retail licenses by brewers

Instructions:

See Attached

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>
/?							
/P1	agary	lkunkel	pgreensl	_____	sbasford		
	01/18/2007	01/25/2007	01/25/2007	_____	01/25/2007		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 12/18/2006

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Risser (608) 266-1627**

By/Representing: **Terry Tuschen (aide)**

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: **Sen.Risser@legis.wisconsin.gov**

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

Pre Topic:

No specific pre topic given

Topic:

Retail licenses by brewers ✓

Instructions:

See Attached

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	p/mk/25	1/05 P8	1/05 P8			
----	-------	---------	------------	------------	--	--	--

FE Sent For:

<END>

Gary, Aaron

From: Tuschen, Terry
Sent: Monday, December 18, 2006 1:58 PM
To: Gary, Aaron
Cc: Tuschen, Terry
Subject: RE: New Sen. Risser drafting request for changing Tiered House Laws

Thanks a lot Aaron. I have a request too if you can do it: I'd like to get a drafter's note summarizing the differences between the draft I sent over today, and the one you drafted previously for Fred, LRB 0044/P1 - if there are any.

Thanks and let me know if that mucks things up for you.
Terry

From: Gary, Aaron
Sent: Monday, December 18, 2006 12:55 PM
To: Tuschen, Terry
Subject: RE: New Sen. Risser drafting request for changing Tiered House Laws

Hi Terry,
I have received the instructions and entered the request as LRB-1168. I'll get back to you if I have any questions.
Aaron

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

From: Tuschen, Terry
Sent: Monday, December 18, 2006 11:06 AM
To: Gary, Aaron
Cc: Tuschen, Terry; 'phanson@wirerestaurant.org'
Subject: New Sen. Risser drafting request for changing Tiered House Laws

Hi Aaron, I'm sending over a drafting request with instructions for the Tiered House issue by messenger. As the request notes, Pete Hanson and Ed Lump are authorized to discuss the draft with you and so forth. Let me know if you have any questions also.

Thanks much,
Terry

Terry Tuschen
Office of State Senator Fred Risser
123 South, State Capitol
Madison, WI 53702
608.266.1627
Terry.Tuschen@legis.state.wi.us

Bill Request Form

Legislative Reference Bureau

100 N. Hamilton Street
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 12-18-06

Legislator, agency, or other person requesting this draft Sen. Fred Risser

Person submitting request (name and phone number) Terry Tuschen 6-1627

Persons to contact for questions about this draft (names and phone numbers) ↑ same

Describe the problem, including any helpful examples. How do you want to solve the problem?

- See attached -

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

125.31

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? ☒ YES ☐ NO

If yes:

Anyone who asks? YES NO

Any legislator? YES NO

Only the following persons Ed Lump + Pete Hanson - Wis Restaurant
608-270-9950 = = Association

Do you consider this request urgent? YES ☒ NO If yes, please indicate why

Should we give this request priority over any pending request of this legislator, agency, or person?

☒ YES ☐ NO

Drafting instructions - Brewpub legislation (WI Chapter 125)

Modifications:

- **125.31 (1)(a)1.** – Modify the meaning of a “small brewer” to include brewers who manufacture less than 10,000 barrels of beer annually.

125.31(1)(a)1.

1. In this paragraph, "small brewer" means a brewer that, together with the fermented malt beverages manufactured during the same year by all of the following, manufactures less than 10,000 4,000 barrels of beer annually:

- **125.31 (1)(a)3.** – Delete requirement that a restaurant whose Class “B” license is issued to a “small brewer” must purchase beer manufactured by the small brewer through an independent wholesaler.

125.31(1)(a)3.

3. Notwithstanding ss. 125.29 (2) and 125.33 (1), in addition to places authorized under subd. 2. , a small brewer may possess a Class "B" license for not more than 4 restaurants in each of which the sale of alcohol beverages accounts for less than 50% of the restaurant's gross receipts and in which is offered for sale fermented malt beverages manufactured by a brewer other than the small brewer who possesses the Class "B" license. ~~No restaurant whose Class "B" license is issued to a small brewer under this subdivision may sell fermented malt beverages manufactured by the small brewer unless the restaurant purchased the fermented malt beverages from a wholesaler that has no direct or indirect ownership interest in the brewery that manufactured the fermented malt beverages.~~

Additions:

- **125.31** – Include a provision that prohibits a “small brewer” who holds a Class “B” license for a restaurant under **125.31 (1)(a)3.** from directly selling or shipping (via a wholesale license) more than 2,000 barrels of beer in any given year to third-party retail establishments. Beer provided by the small brewer to retail establishments for which the brewer holds a Class “B” license would not be included under the 2,000 barrel limit.

in 1/18

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1

AN ACT ...; relating to: retail alcohol beverage licenses held by brewers. ✓

Analysis by the Legislative Reference Bureau

Under current law, alcohol beverages are generally distributed from the manufacturer to the consumer under a three-tier distribution system: the manufacturer sells to a wholesaler; the wholesaler sells to a retailer or another wholesaler; and the retailer sells to the consumer. ↓ With respect to fermented malt beverages (beer), a brewer's permit authorizes the brewer to manufacture, possess, and store beer on the brewery premises. ↓ A brewer generally may not hold a Class "B" license (authorizing the retail sale of beer for consumption on or off the premises where sold), subject to certain exceptions. ✓ 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. ↓

This bill modifies this definition of "small brewer" to include a brewer that manufactures less than 10,000, rather than 4,000, barrels of beer annually. ✓ The bill also modifies the exception for Class "B" licenses issued to small brewers for restaurants. Under the bill, if a small brewer obtains a Class "B" license for a restaurant after the bill's effective date, the restaurant is not required to purchase the small brewer's beer from an independent wholesaler, but the small brewer is

prohibited from selling or shipping more than a total of 2,000 barrels of beer in any calendar year to Class "A" and Class "B" licensees other than the small brewer. ✓

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

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

2 125.31 (1) (a) 1. (intro.) In this paragraph, "small brewer" means a brewer that,
3 together with the fermented malt beverages manufactured during the same year by
4 all of the following, manufactures less than 4,000 ✓ 10,000 barrels of beer annually:

History: 1981 c. 79; 1989 a. 253; 1991 a. 32; 1993 a. 112, 213, 215, 491; 1999 a. 163; 2001 a. 16; 2005 a. 103.

5 **SECTION 2.** 125.31 (1) (a) 3. of the statutes is amended to read:

6 125.31 (1) (a) 3. Notwithstanding ss. 125.29 (2) and 125.33 (1), in addition to
7 places authorized under subd. 2., a small brewer may possess a Class "B" license for
8 not more than 4 restaurants in each of which the sale of alcohol beverages accounts
9 for less than 50% of the restaurant's gross receipts and in which is offered for sale
10 fermented malt beverages manufactured by a brewer other than the small brewer
11 who possesses the Class "B" license. No restaurant whose Class "B" license is issued
12 to a small brewer under this subdivision prior to the effective date of this subdivision
13 ... [revisor inserts date], may sell fermented malt beverages manufactured by the
14 small brewer unless the restaurant purchased the fermented malt beverages from
15 a wholesaler that has no direct or indirect ownership interest in the brewery that
16 manufactured the fermented malt beverages. A small brewer that possesses any
17 Class "B" license under this subdivision issued on or after the effective date of this
18 subdivision ... [revisor inserts date], is subject to s. 125.34 (2) (d). ✓

History: 1981 c. 79; 1989 a. 253; 1991 a. 32; 1993 a. 112, 213, 215, 491; 1999 a. 163; 2001 a. 16; 2005 a. 103.

19 **SECTION 3.** 125.34 (2) (d) of the statutes is created to read:

1 125.34 (2) (d) A small brewer, as defined in s. 125.31 (1) (a) 1., that possesses
2 a wholesaler's license and any Class "B" license issued under s. 125.31 (1) (a) 3. on
3 or after the effective date of this paragraph [revisor inserts date], may not sell or
4 ship more than a total of 2,000 barrels of fermented malt beverages in any calendar
5 year to retailers. Fermented malt beverages provided by a brewer to any retail
6 premises for which the brewer holds the retail license shall not be included in any
7 calculation of the 2,000 barrel limitation under this paragraph.

(END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1168/P1dn

ARG:.....

mk

√
ATTN: Terry Tuschen

Please review the attached draft carefully to ensure that it is consistent with your intent. ✓

✓
In created s. 125.34 (2) (d), the term "retailers" includes both Class "A" licensees and Class "B" licensees and permittees. Is this consistent with your intent? ✓

I attempted in drafting this bill not to inadvertently impact small brewers with existing Class "B" licenses for restaurants under s. 125.31 (1) (a) 3. ✓ While these small brewers might welcome the elimination of the requirement that they buy their own product from independent wholesalers, there may be some small brewers who would be adversely affected in their current operations by the wholesale restriction created by s. 125.34 (2) (d). ✓ Accordingly, I have attempted to draft these provisions to make them "voluntary" by limiting application to small brewers who obtain new Class "B" licenses. ✓ Is this consistent with your intent? I could also eliminate the independent wholesaler requirement under s. 125.31 (1) (a) 3. for all purposes and make the new wholesale distribution limitation apply only to small brewers who obtain a new Class "B" license under s. 125.31 (1) (a) 3. if this would better reflect your intent. ✓

You asked that I compare this draft with LRB-0044. I assume your interest here is with brewers that operate brew pubs having restaurants. ✓ Under LRB-0044, such a brew pub can hold up to three Class "B" licenses assuming at least two are on brew pub premises and at least one of these operates as a restaurant. ✓ There is no requirement that the brew pub's sales of food and related items be greater than its sales of alcohol. ✓ In contrast, under LRB-1168, a brew pub can hold two Class "B" licenses with basically no restrictions. ✓ If the brew pub brews less than 10,000 barrels of beer annually, it can hold up to four more Class "B" licenses at restaurants if, at each restaurant, the brew pub's sales of food and related items is greater than its sales of alcohol. ✓ In order to be eligible for these additional Class "B" licenses for restaurants, the brew pub would have to limit itself to wholesaling no more than 2,000 barrels of beer each year to other retailers. ✓ In summary, LRB-0044 provides for a maximum of three Class "B" licenses with fewer limitations, while LRB-1168 provides for a maximum of six Class "B" licenses with more limitations. ✓

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft. ✓

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1168/P1dn
ARG:lmk:pg

January 25, 2007

ATTN: Terry Tuschen

Please review the attached draft carefully to ensure that it is consistent with your intent.

In created s. 125.34 (2) (d), the term "retailers" includes both Class "A" licensees and Class "B" licensees and permittees. Is this consistent with your intent?

I attempted in drafting this bill not to inadvertently impact small brewers with existing Class "B" licenses for restaurants under s. 125.31 (1) (a) 3. While these small brewers might welcome the elimination of the requirement that they buy their own product from independent wholesalers, there may be some small brewers who would be adversely affected in their current operations by the wholesale restriction created by s. 125.34 (2) (d). Accordingly, I have attempted to draft these provisions to make them "voluntary" by limiting application to small brewers who obtain new Class "B" licenses. Is this consistent with your intent? I could also eliminate the independent wholesaler requirement under s. 125.31 (1) (a) 3. for all purposes and make the new wholesale distribution limitation apply only to small brewers who obtain a new Class "B" license under s. 125.31 (1) (a) 3. if this would better reflect your intent.

You asked that I compare this draft with LRB-0044. I assume your interest here is with brewers that operate brew pubs having restaurants. Under LRB-0044, such a brew pub can hold up to three Class "B" licenses assuming at least two are on brew pub premises and at least one of these operates as a restaurant. There is no requirement that the brew pub's sales of food and related items be greater than its sales of alcohol. In contrast, under LRB-1168, a brew pub can hold two Class "B" licenses with basically no restrictions. If the brew pub brews less than 10,000 barrels of beer annually, it can hold up to four more Class "B" licenses at restaurants if, at each restaurant, the brew pub's sales of food and related items is greater than its sales of alcohol. In order to be eligible for these additional Class "B" licenses for restaurants, the brew pub would have to limit itself to wholesaling no more than 2,000 barrels of beer each year to other retailers. In summary, LRB-0044 provides for a maximum of three Class "B" licenses with fewer limitations, while LRB-1168 provides for a maximum of six Class "B" licenses with more limitations.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1168/P1

ARG:lmk:pg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 **AN ACT to amend** 125.31 (1) (a) 1. (intro.) and 125.31 (1) (a) 3.; and **to create**
2 125.34 (2) (d) of the statutes; **relating to:** retail alcohol beverage licenses held
3 by brewers.

Analysis by the Legislative Reference Bureau

Under current law, alcohol beverages are generally distributed from the manufacturer to the consumer under a three-tier distribution system: the manufacturer sells to a wholesaler; the wholesaler sells to a retailer or another wholesaler; and the retailer sells to the consumer. With respect to fermented malt beverages (beer), a brewer's permit authorizes the brewer to manufacture, possess, and store beer on the brewery premises. A brewer generally may not hold a Class "B" license (authorizing the retail sale of beer for consumption on or off the premises where sold), subject to certain exceptions. 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.

This bill modifies this definition of "small brewer" to include a brewer that manufactures less than 10,000, rather than 4,000, barrels of beer annually. The bill also modifies the exception for Class "B" licenses issued to small brewers for

restaurants. Under the bill, if a small brewer obtains a Class "B" license for a restaurant after the bill's effective date, the restaurant is not required to purchase the small brewer's beer from an independent wholesaler, but the small brewer is prohibited from selling or shipping more than a total of 2,000 barrels of beer in any calendar year to Class "A" and Class "B" licensees other than the small brewer.

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

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

2 125.31 (1) (a) 1. (intro.) In this paragraph, "small brewer" means a brewer that,
3 together with the fermented malt beverages manufactured during the same year by
4 all of the following, manufactures less than 4,000 10,000 barrels of beer annually:

5 **SECTION 2.** 125.31 (1) (a) 3. of the statutes is amended to read:

6 125.31 (1) (a) 3. Notwithstanding ss. 125.29 (2) and 125.33 (1), in addition to
7 places authorized under subd. 2., a small brewer may possess a Class "B" license for
8 not more than 4 restaurants in each of which the sale of alcohol beverages accounts
9 for less than 50% of the restaurant's gross receipts and in which is offered for sale
10 fermented malt beverages manufactured by a brewer other than the small brewer
11 who possesses the Class "B" license. No restaurant whose Class "B" license is issued
12 to a small brewer under this subdivision prior to the effective date of this subdivision
13 [revisor inserts date], may sell fermented malt beverages manufactured by the
14 small brewer unless the restaurant purchased the fermented malt beverages from
15 a wholesaler that has no direct or indirect ownership interest in the brewery that
16 manufactured the fermented malt beverages. A small brewer that possesses any
17 Class "B" license under this subdivision issued on or after the effective date of this
18 subdivision [revisor inserts date], is subject to s. 125.34 (2) (d).

19 **SECTION 3.** 125.34 (2) (d) of the statutes is created to read:

1 125.34 (2) (d) A small brewer, as defined in s. 125.31 (1) (a) 1., that possesses
2 a wholesaler's license and any Class "B" license issued under s. 125.31 (1) (a) 3. on
3 or after the effective date of this paragraph [revisor inserts date], may not sell or
4 ship more than a total of 2,000 barrels of fermented malt beverages in any calendar
5 year to retailers. Fermented malt beverages provided by a brewer to any retail
6 premises for which the brewer holds the retail license shall not be included in any
7 calculation of the 2,000 barrel limitation under this paragraph.

8 (END)