

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4011/P1dn
ARG:kjf:rs

February 7, 2008

ATTN: Dave Volz

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

It is unclear whether this bill is necessary to accommodate the objective of your constituent, as the relevant statute is quite ambiguous. To my knowledge, the only provision restricting your constituent from allowing clients to bring bottles of wine to a cooking class is s. 125.09 (1). The use of the term "premises" in this statute makes it ambiguous. Under s. 125.02 (14m), "premises" is limited to a location covered by an alcohol beverages license or permit. In the context of underage drinking, courts have offered a restrained view of the meaning of the term "premises" that is consistent with this definition, even if the result is to frustrate the apparent intent of s. 125.07 (1) (a) 3. Your constituent could reasonably argue that her cooking classes are not conducted on a "premises" and therefore s. 125.09 (1) wouldn't prohibit clients from bringing their own wine. This argument seems inconsistent with the intent of s. 125.09 (1) but consistent with the definition of "premises" in s. 125.02 (14m). Your constituent may wish to consider consulting with local enforcement officials or enforcement officials at the Department of Revenue on this issue or pursue a declaratory judgment action in court.

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.

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