

2009 DRAFTING REQUEST

Bill

Received: **11/26/2008**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Josh Zepnick (608) 266-1707**

By/Representing: **Ryan Schroeder**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Beverages**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Zepnick@legis.wisconsin.gov**

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

Pre Topic:

No specific pre topic given

Topic:

Requiring bartenders to be sober

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 12/05/2008	bkraft 12/08/2008	mduchek 12/08/2008	_____	lparisi 12/08/2008		
/1	agary 12/16/2008	bkraft 12/16/2008	rschlue 12/17/2008	_____	sbasford 12/17/2008	mbarman 12/17/2008	S&L
/2	agary 01/05/2009	bkraft 01/05/2009	rschlue 01/06/2009	_____	sbasford 01/06/2009	sbasford 01/06/2009	

FE Sent For:

*et
intro*

<END>

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12 bjk 1/5

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Handwritten signatures and dates: 12/17, <END>

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/?	agary	/Plbjk 12/8		_____			

FE Sent For:

<END>

Nelson, Robert P.

From: Hanaman, Cathlene
Sent: Monday, November 24, 2008 11:36 AM
To: Nelson, Robert P.; Hurley, Peggy
Subject: FW: bill drafts

Attachments: Picture (Metafile)



From: Schroeder, Ryan
Sent: Monday, November 24, 2008 11:25 AM
To: Hanaman, Cathlene
Subject: RE: bill drafts

Hello Cathlene,

sobber

Don't know if I can run this question by you or Bob, but Rep. Zepnick was wondering is it already part of law that requires bartenders to be *sobber* when they are working or serving or just part of their license requirement? If not law already he would like to include that into law. Thanks Ryan

Ryan J. Schroeder
Office of Rep. Josh Zepnick
State Capitol Room 219 North
P.O. Box 8953
Madison, WI 53703

Phone (608) 266-1707
Toll Free (888) 534-0009
Fax (608) 282-3609

From: Hanaman, Cathlene
Sent: Monday, November 24, 2008 9:51 AM
To: Schroeder, Ryan
Subject: RE: bill drafts

Ryan:

Bob Nelson is working on these drafts since he drafts in the area of drunken driving. I forwarded your message to him.

Just FYI.

-Cathlene

From: Schroeder, Ryan
Sent: Monday, November 24, 2008 9:44 AM
To: Hanaman, Cathlene
Subject: RE: bill drafts

Good Morning Cathlene,

Wanted to follow-up with you on our phone conversation from Friday. Thank you again for the drafts pertaining to child welfare issues. Also, wondered if you had anything drafted as of yet with regards to drunk driving issues.

Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, November 26, 2008 3:09 PM
To: Schroeder, Ryan
Cc: Hanaman, Cathlene; Nelson, Robert P.
Subject: Sober bartenders

Ryan,

Your question regarding bartender sobriety was passed along to me, since I am the alcohol beverages drafter. To answer your question, there is no requirement under current law that bartenders be sober.

If you would like a bill drafted creating such a requirement, I will need a few more details. It may be helpful to have some background on current law. Municipalities presently issue bartender's licenses. Under current law, a person does not need a bartender's license to work as a bartender. However, retailers (including taverns, liquor stores, and grocery stores) generally must have on the premises during hours that the retailer is open at least one person who is in charge and who has a bartender's license.

I need to clarify what you mean when you refer to bartenders being "sober." Do you mean the bartender should: 1) not consume alcohol while working [but he or she could consume alcohol in off-work hours before starting a shift], 2) have a BAC of no more than 0.0 while on the job, 3) have a BAC of no more than 0.8 while on the job, or other?

Do you want the bill to apply only to taverns and bars, or to liquor stores and grocery stores too?

Do you want the bill to apply only to licensed bartenders (and their equivalents, ie those holding retail licenses and managers licenses), or do you want it to apply to every person who serves alcohol on a retail licensed premises?

I have entered this request as LRB-0961.

Aaron

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

Gary, Aaron

From: Peters, Steven
Sent: Thursday, December 04, 2008 1:11 PM
To: Gary, Aaron
Subject: LRB-0961

Aaron,

I have some answers to the questions you had about the server sobriety legislation

See the responses in bold and underlined below

Thanks

Steve

Ryan,

Your question regarding bartender sobriety was passed along to me, since I am the alcohol beverages drafter. To answer your question, there is no requirement under current law that bartenders be sober.

If you would like a bill drafted creating such a requirement, I will need a few more details. It may be helpful to have some background on current law. Municipalities presently issue bartender's licenses. Under current law, a person does not need a bartender's license to work as a bartender. However, retailers (including taverns, liquor stores, and grocery stores) generally must have on the premises during hours that the retailer is open at least one person who is in charge and who has a bartender's license.

I need to clarify what you mean when you refer to bartenders being "sober." Do you mean the bartender should: 1) not consume alcohol while working [but he or she could consume alcohol in off-work hours before starting a shift], 2) have a BAC of no more than 0.0 while on the job, 3) have a BAC of no more than 0.8 while on the job, or other?

Rep Zepnick would like option 2 have a BAC of no more

Do you want the bill to apply only to taverns and bars, or to liquor stores and grocery stores too?

Only Taverns and Bars

Do you want the bill to apply only to licensed bartenders (and their equivalents, ie those holding retail licenses and managers licenses), or do you want it to apply to every person who serves alcohol on a retail licensed premises?

Only Licensed Bartenders

I have entered this request as LRB-0961.

Aaron

Steven Peters

Rep. Josh Zepnick's Office
608-266-1707
Steven.Peters@legis.wisconsin.gov



5004

ARG:.....
Lbjk

in
12/5

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Editors: please read d-note first

SAV
X-ref ✓

- 1 AN ACT ^{gen.} ...; relating to: alcohol beverages operators' licenses and persons
- 2 responsible for the operation of certain retail licensed premises. ✓

Analysis by the Legislative Reference Bureau

Under current law, with specific exceptions, no person may sell alcohol beverages at retail unless the person possesses a license or permit authorizing the sale. Class "B" licenses, issued by municipalities, authorize the retail sale of fermented malt beverages (beer) for consumption on or off the retail premises. "Class B" licenses, also issued by municipalities, authorize the retail sale of intoxicating liquor for consumption on or off the retail 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. ✓

Current law requires municipalities to issue operators' licenses (commonly called bartenders' licenses) and authorizes municipalities to issue managers' licenses. No retail seller of alcohol beverages may be open for business unless the licensee, the designated agent of a corporate licensee, or a person who possesses a manager's license or operator's license is present and responsible for the acts of all persons providing alcohol beverages on the premises. ✓

This bill prohibits a person holding an operator's license or manager's license, or a person who is a Class "B" or "Class B" licensee or a designated agent of a corporate Class "B" or "Class B" licensee, from being on Class "B" or "Class B" licensed premises where the person is employed or holds an ownership interest,

during the person's working hours, if the person has an alcohol concentration of more than 0.0, as measured from the person's blood or breath. ✓

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

1 **SECTION 1.** 125.17 (1) of the statutes is amended to read:

2 125.17 (1) AUTHORIZATION. Every municipal governing body shall issue an
3 operator's license to any applicant who is qualified under s. 125.04 (5). Operators'
4 licenses may not be required other than for the purpose of complying with ss. 125.32
5 (2) (a) and 125.68 (2) (a). Operators' licenses may be issued only upon written
6 application. ✓

7 History: 1981 c. 79, 170; 1983 a. 263; 1989 a. 253; 1991 a. 39, 269; 1993 a. 259, 399, 491; 1995 a. 27 s. 9154 (1); 1997 a. 27; 2001 a. 16; 2003 a. 245.

8 **SECTION 2.** 125.32 (2) (title) of the statutes is amended to read:

9 125.32 (2) (title) OPERATORS LICENSES AND CLASS "A" OR CLASS "B" PREMISES
10 SUPERVISION. ✓

11 History: 1981 c. 79; 1983 a. 27, 74, 192, 452; 1985 a. 28, 33, 221, 317; 1987 a. 27, 121; 1989 a. 253; 1991 a. 28, 39, 315; 1993 a. 112; 1995 a. 320; 2007 a. 3, 9, 20.

12 **SECTION 3.** 125.32 (2) of the statutes is renumbered 125.32 (2) (a) and amended
13 to read:

14 125.32 (2) (a) Except as provided under sub. (3) (b) and s. 125.07 (3) (a) 10., and
15 subject to par. (b), no premises operated under a Class "A" or Class "B" license or
16 permit may be open for business unless there is upon the premises the licensee or
17 permittee, the agent named in the license or permit if the licensee or permittee is a
18 corporation or limited liability company, or some person who has an operator's
19 license and who is responsible for the acts of all persons serving any fermented malt
20 beverages to customers. An operator's license issued in respect to a vessel under s.
125.27 (2) is valid outside the municipality that issues it. For the purpose of this
subsection paragraph, and subject to par. (b), any person holding a manager's license

1 under s. 125.18 or any member of the licensee's or permittee's immediate family who
2 has attained the age of 18 shall be considered the holder of an operator's license. No
3 person, including a member of the licensee's or permittee's immediate family, other
4 than the licensee, permittee or agent may serve fermented malt beverages in any
5 place operated under a Class "A" or Class "B" license or permit unless he or she has
6 an operator's license or is at least 18 years of age and is under the immediate
7 supervision of the licensee, permittee, agent or a person holding an operator's
8 license, who is on the premises at the time of the service. ✓

History: 1981 c. 79; 1983 a. 27, 74, 192, 452; 1985 a. 28, 33, 221, 317; 1987 a. 27, 121; 1989 a. 253; 1991 a. 28, 39, 315; 1993 a. 112; 1995 a. 320; 2007 a. 3, 9, 20.

9 **SECTION 4.** 125.32 (2) (b) of the statutes is created to read:

10 125.32 (2) (b) No person holding an operator's license under s. 125.17 or a
11 manager's license under s. 125.18, and no licensee or permittee, agent named in the
12 license or permit if the licensee or permittee is a corporation or limited liability
13 company, or member of the licensee's or permittee's immediate family, may be on
14 premises operated under a Class "B" license or permit where the person is employed
15 or holds an ownership interest, during the person's working hours, if the person has
16 an alcohol concentration, as defined in s. 340.01 (1v), of more than 0.0. ✓

17 **SECTION 5.** 125.32 (3) (b) of the statutes is amended to read:

18 125.32 (3) (b) Class "A" premises may remain open for the conduct of their
19 regular business but may not sell fermented malt beverages between 12 midnight
20 and 8 a.m. Subsection (2) (a) does not apply to Class "A" premises between 12
21 midnight and 8 a.m. or at any other time during which the sale of fermented malt
22 beverages is prohibited by a municipal ordinance adopted under par. (d). ✓

History: 1981 c. 79; 1983 a. 27, 74, 192, 452; 1985 a. 28, 33, 221, 317; 1987 a. 27, 121; 1989 a. 253; 1991 a. 28, 39, 315; 1993 a. 112; 1995 a. 320; 2007 a. 3, 9, 20.

23 **SECTION 6.** 125.68 (2) (title) of the statutes is amended to read:

1 125.68 (2) (title) OPERATORS' LICENSES; AND "CLASS A", "CLASS B" OR "CLASS C"
2 PREMISES SUPERVISION. ✓

History: 1981 c. 79, 158, 202; 1983 a. 74; 1983 a. 189 s. 329 (6); 1983 a. 203 s. 47; 1983 a. 349; 1985 a. 28, 221, 317; 1987 a. 27, 121, 399; 1989 a. 30, 253; 1991 a. 28, 39; 1993 a. 27, 112; 1995 a. 27 s. 9126 (19); 1997 a. 283; 2001 a. 16, 109; 2005 a. 25, 268; 2007 a. 3; 2007 a. 20 s. 9121 (6) (a); 2007 a. 85.

3 **SECTION 7.** 125.68 (2) of the statutes is renumbered 125.68 (2) (a) and amended
4 to read:

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

History: 1981 c. 79, 158, 202; 1983 a. 74; 1983 a. 189 s. 329 (6); 1983 a. 203 s. 47; 1983 a. 349; 1985 a. 28, 221, 317; 1987 a. 27, 121, 399; 1989 a. 30, 253; 1991 a. 28, 39; 1993 a. 27, 112; 1995 a. 27 s. 9126 (19); 1997 a. 283; 2001 a. 16, 109; 2005 a. 25, 268; 2007 a. 3; 2007 a. 20 s. 9121 (6) (a); 2007 a. 85.

23 **SECTION 8.** 125.68 (2) (b) of the statutes is created to read:

1 125.68 (2) (b) No person holding an operator's license under s. 125.17 or a
2 manager's license under s. 125.18, and no licensee or permittee, agent named in the
3 license or permit if the licensee or permittee is a corporation or limited liability
4 company, or member of the licensee's or permittee's immediate family, may be on
5 premises operated under a "Class B" license or permit where the person is employed
6 or holds an ownership interest, during the person's working hours, if the person has
7 an alcohol concentration, as defined in s. 340.01 (1v), of more than 0.0. ✓

8 **SECTION 9.** 945.041 (3) of the statutes is amended to read:

9 945.041 (3) Such proceeding shall be in the name of the state and the issues
10 may be determined by a jury. It shall be instituted by the filing of a petition and
11 service of a notice as herein provided. The petition shall be directed to the circuit
12 court and shall set forth a clear and concise statement of the grounds that are alleged
13 to exist justifying a revocation of the license or permit under sub. (1), and shall
14 request an order revoking such license or permit. It shall also request an injunction
15 restraining the defendant from thereafter knowingly suffering or permitting any
16 such devices or any horse race betting to be set up, kept, managed, used or conducted
17 upon premises directly or indirectly controlled by the defendant. Upon the filing of
18 such petition the court shall fix a time for hearing not to exceed 30 days from the date
19 of filing at a place within the judicial circuit, and a copy of the petition and a notice
20 of the time and place of hearing shall be served upon the defendant not less than 20
21 days prior to the date of hearing. Such service shall be made in the same manner as
22 a summons is served in a civil action, except that it may also be made by leaving a
23 copy of said petition and notice with any person charged with the operation of the
24 licensed premises under s. 125.68 (2) (a). The allegations of the petition shall be
25 deemed controverted and shall be at issue without further pleading by the

1 defendant. No hearing shall be adjourned except for cause. If upon such hearing the
2 court finds that the allegations of the petition are true, it shall issue a written order
3 revoking the license or permit and shall likewise enjoin the defendant from
4 thereafter knowingly suffering or permitting any gambling devices referred to in
5 sub. (1) or any horse race betting to be set up, kept, managed, used or conducted upon
6 premises directly or indirectly controlled by the defendant. The district attorney
7 shall forthwith cause a copy of the order to be filed with the issuing authority of the
8 license or permit and shall cause a copy to be served upon the defendant as above
9 provided or the defendant's attorney. The revocation and injunction shall become
10 effective upon such service. In cases where a license is issued by a town, city or
11 village, a copy of the order shall also be filed with the department of revenue. ✓

History: 1973 c. 156; 1975 c. 39 s. 675v; 1975 c. 199; Stats. 1975 s. 945.041; 1977 c. 26, 173; 1977 c. 187 s. 135; 1979 c. 257; 1981 c. 79 s. 18; 1987 a. 399; 1991 a. 269; 1993 a. 486; 1999 a. 9.

12

(END)



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0961/P1dn

ARG:.....

Date

Lbjk

ATTN: Ryan Schroeder

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

The attached draft covers most restaurants serving intoxicating liquor. However, in
limited circumstances, a restaurant may obtain a "Class C" license to serve only wine. ✓
These restaurants would not be covered by this bill. Please let me know if this is not
consistent with your intent.

For many years, ss. 125.32 (2) and 125.68 (2) have contained an internal inconsistency
relating to immediate family members of licensees and permittees. I have not ✓
attempted to correct this statutory inconsistency in this draft. Please let me know if
you want me to do so.

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-0961/P1dn
ARG:bjk.md

December 8, 2008

ATTN: Ryan Schroeder

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

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Meeting w/ Rep. Zepnick, Ryan, RPN, ARG

12/15/08

re

• 0961 -

• fix statutory conflict, per d-note

• ~~AR 12/15/08~~

stays

soon

in 12/16

AMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV

Insert

regen.

1 AN ACT *to renumber and amend* 125.32 (2) and 125.68 (2); *to amend* 125.17
 2 (1), 125.32 (2) (title), 125.32 (3) (b), 125.68 (2) (title) and 945.041 (3); and *to*
 3 *create* 125.32 (2) (b) and 125.68 (2) (b) of the statutes; **relating to:** alcohol
 4 beverages operators' licenses and persons responsible for the operation of
 5 certain retail licensed premises. ✓

Analysis by the Legislative Reference Bureau

Under current law, with specific exceptions, no person may sell alcohol beverages at retail unless the person possesses a license or permit authorizing the sale. Class "B" licenses, issued by municipalities, authorize the retail sale of fermented malt beverages (beer) for consumption on or off the retail premises. "Class B" licenses, also issued by municipalities, authorize the retail sale of intoxicating liquor for consumption on or off the retail 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.

Current law requires municipalities to issue operators' licenses (commonly called bartenders' licenses) and authorizes municipalities to issue managers' licenses. No retail seller of alcohol beverages may be open for business unless the licensee, the designated agent of a corporate licensee, or a person who possesses a manager's license or operator's license is present and responsible for the acts of all persons providing alcohol beverages on the premises.

This bill prohibits a person holding an operator's license or manager's license, or a person who is a Class "B" or "Class B" licensee or a designated agent of a

corporate Class "B" or "Class B" licensee, from being on Class "B" or "Class B" licensed premises where the person is employed or holds an ownership interest, during the person's working hours, if the person has an alcohol concentration of more than 0.0, as measured from the person's blood or breath.

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

1 **SECTION 1.** 125.17 (1) of the statutes is amended to read:

2 125.17 (1) AUTHORIZATION. Every municipal governing body shall issue an
3 operator's license to any applicant who is qualified under s. 125.04 (5). Operators'
4 licenses may not be required other than for the purpose of complying with ss. 125.32
5 (2) (a) and 125.68 (2) (a). Operators' licenses may be issued only upon written
6 application.

7 **SECTION 2.** 125.32 (2) (title) of the statutes is amended to read:

8 125.32 (2) (title) OPERATORS LICENSES AND CLASS "A" OR CLASS "B" PREMISES
9 SUPERVISION.

10 **SECTION 3.** 125.32 (2) of the statutes is renumbered 125.32 (2) (a) and amended
11 to read:

12 125.32 (2) (a) Except as provided under sub. (3) (b) and s. 125.07 (3) (a) 10., and
13 subject to par. (b), no premises operated under a Class "A" or Class "B" license or
14 permit may be open for business unless there is upon the premises the licensee or
15 permittee, the agent named in the license or permit if the licensee or permittee is a
16 corporation or limited liability company, or some person who has an operator's
17 license and who is responsible for the acts of all persons serving any fermented malt
18 beverages to customers. An operator's license issued in respect to a vessel under s.
19 125.27 (2) is valid outside the municipality that issues it. For the purpose of this
20 subsection paragraph, and subject to par. (b), any person holding a manager's license

1 under s. 125.18 or any member of the licensee's or permittee's immediate family who
2 has attained the age of 18 shall be considered the holder of an operator's license. No
3 person, ~~including a member of the licensee's or permittee's immediate family,~~ other
4 than the licensee, permittee or agent may serve fermented malt beverages in any
5 place operated under a Class "A" or Class "B" license or permit unless he or she has
6 an operator's license ^{is considered to hold an operator's license} or is at least 18 years of age and is under the immediate
7 supervision of the licensee, permittee, agent or a ^{or considered to hold} person holding an operator's
8 license, who is on the premises at the time of the service. ✓

9 SECTION 4. 125.32 (2) (b) of the statutes is created to read:

10 125.32 (2) (b) No person holding ^{or considered to hold} an operator's license under s. 125.17 ^{or a}
11 manager's license under s. 125.18, and no licensee or permittee, ^{or} agent named in the
12 license or permit if the licensee or permittee is a corporation or limited liability
13 company, or member of the licensee's or permittee's immediate family, may be on
14 premises operated under a Class "B" license or permit where the person is employed
15 or holds an ownership interest, during the person's working hours, if the person has
16 an alcohol concentration, as defined in s. 340.01 (1v), of more than 0.0.

17 SECTION 5. 125.32 (3) (b) of the statutes is amended to read:

18 125.32 (3) (b) Class "A" premises may remain open for the conduct of their
19 regular business but may not sell fermented malt beverages between 12 midnight
20 and 8 a.m. Subsection (2) (a) does not apply to Class "A" premises between 12
21 midnight and 8 a.m. or at any other time during which the sale of fermented malt
22 beverages is prohibited by a municipal ordinance adopted under par. (d).

23 SECTION 6. 125.68 (2) (title) of the statutes is amended to read:

24 125.68 (2) (title) OPERATORS' LICENSES; AND "CLASS A", "CLASS B" OR "CLASS C"
25 PREMISES SUPERVISION.

1 SECTION 7. 125.68 (2) of the statutes is renumbered 125.68 (2) (a) and amended
2 to read:

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

21 SECTION 8. 125.68 (2) (b) of the statutes is created to read:

22 125.68 (2) (b) No person holding *or considered to hold* an operator's license under s. 125.17 *or a*
23 manager's license under s. 125.18, and no licensee or permittee *or* agent named in the
24 license or permit if the licensee or permittee is a corporation or limited liability
25 company, or member of the licensee's or permittee's immediate family, may be on

1 premises operated under a "Class B" license or permit where the person is employed
2 or holds an ownership interest, during the person's working hours, if the person has
3 an alcohol concentration, as defined in s. 340.01 (1v), of more than 0.0.

4 **SECTION 9.** 945.041 (3) of the statutes is amended to read:

5 945.041 (3) Such proceeding shall be in the name of the state and the issues
6 may be determined by a jury. It shall be instituted by the filing of a petition and
7 service of a notice as herein provided. The petition shall be directed to the circuit
8 court and shall set forth a clear and concise statement of the grounds that are alleged
9 to exist justifying a revocation of the license or permit under sub. (1), and shall
10 request an order revoking such license or permit. It shall also request an injunction
11 restraining the defendant from thereafter knowingly suffering or permitting any
12 such devices or any horse race betting to be set up, kept, managed, used or conducted
13 upon premises directly or indirectly controlled by the defendant. Upon the filing of
14 such petition the court shall fix a time for hearing not to exceed 30 days from the date
15 of filing at a place within the judicial circuit, and a copy of the petition and a notice
16 of the time and place of hearing shall be served upon the defendant not less than 20
17 days prior to the date of hearing. Such service shall be made in the same manner as
18 a summons is served in a civil action, except that it may also be made by leaving a
19 copy of said petition and notice with any person charged with the operation of the
20 licensed premises under s. 125.68 (2) (a). The allegations of the petition shall be
21 deemed controverted and shall be at issue without further pleading by the
22 defendant. No hearing shall be adjourned except for cause. If upon such hearing the
23 court finds that the allegations of the petition are true, it shall issue a written order
24 revoking the license or permit and shall likewise enjoin the defendant from
25 thereafter knowingly suffering or permitting any gambling devices referred to in

1 sub. (1) or any horse race betting to be set up, kept, managed, used or conducted upon
2 premises directly or indirectly controlled by the defendant. The district attorney
3 shall forthwith cause a copy of the order to be filed with the issuing authority of the
4 license or permit and shall cause a copy to be served upon the defendant as above
5 provided or the defendant's attorney. The revocation and injunction shall become
6 effective upon such service. In cases where a license is issued by a town, city or
7 village, a copy of the order shall also be filed with the department of revenue.

8 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0961/1ins

ARG:.....

Lbjk

INSERT ANAL:

ⓧ The bill also eliminates a statutory inconsistency as to whether an immediate family member of a Class "B" or "Class B" licensee is considered to hold an operator's license and treats such an immediate family member like other holders of operators' licenses. ✓

Barman, Mike

From: Peters, Steven
Sent: Wednesday, December 17, 2008 9:35 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-0961/1 Topic: Requiring bartenders to be sober

Please Jacket LRB 09-0961/1 for the ASSEMBLY.

ARG



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0961/12

ARG:bjk:rs

stage

Wanted
by 1/7
end of day

RMR

2009 BILL

1/5 H/W Ryan - add and ...

jacket is

being set back

SAV
X-refv

Insert

1 AN ACT to amend 125.17 (2) and 125.68 (2); **to amend** 125.17

2 (1), 125.32 (2) (a), 125.32 (2) (b), 125.68 (2) (title) and 945.041 (3); and **to**

3 **create** 125.32 (2) (b) and 125.68 (2) (b) of the statutes; **relating to:** alcohol

4 beverages operators' licenses ^{managers' licenses and retail licenses} and persons responsible for the operation of

5 certain retail licensed premises.

Analysis by the Legislative Reference Bureau

Under current law, with specific exceptions, no person may sell alcohol beverages at retail unless the person possesses a license or permit authorizing the sale. Class "B" licenses, issued by municipalities, authorize the retail sale of fermented malt beverages (beer) for consumption on or off the retail premises. "Class B" licenses, also issued by municipalities, authorize the retail sale of intoxicating liquor for consumption on or off the retail 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.

Current law requires municipalities to issue operators' licenses (commonly called bartenders' licenses) and authorizes municipalities to issue managers' licenses. No retail seller of alcohol beverages may be open for business unless the licensee, the designated agent of a corporate licensee, or a person who possesses a manager's license or operator's license is present and responsible for the acts of all persons providing alcohol beverages on the premises.

This bill prohibits a person holding an operator's license or manager's license, or a person who is a Class "B" or "Class B" licensee or a designated agent of a

BILL

corporate Class "B" or "Class B" licensee, from being on Class "B" or "Class B" licensed premises where the person is employed or holds an ownership interest, during the person's working hours, if the person has an alcohol concentration of more than 0.0, as measured from the person's blood or breath. *(insert ANAL)*

The bill also eliminates a statutory inconsistency as to whether an immediate family member of a Class "B" or "Class B" licensee is considered to hold an operator's license and treats such an immediate family member like other holders of operators' licenses.

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

SECTION 1. 125.17 (1) of the statutes is amended to read:

125.17 (1) AUTHORIZATION. Every municipal governing body shall issue an operator's license to any applicant who is qualified under s. 125.04 (5). Operators' licenses may not be required other than for the purpose of complying with ss. 125.32 (2) (a) and 125.68 (2) (a). Operators' licenses may be issued only upon written application.

SECTION 2. 125.32 (2) (title) of the statutes is amended to read:

125.32 (2) (title) OPERATORS LICENSES AND CLASS "A" OR CLASS "B" PREMISES SUPERVISION.

SECTION 3. 125.32 (2) of the statutes is renumbered 125.32 (2) (a) and amended to read:

125.32 (2) (a) Except as provided under sub. (3) (b) and s. 125.07 (3) (a) 10., and subject to par. (b), no premises operated under a Class "A" or Class "B" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or limited liability company, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under s.

add FE-SL
insert 2-1

BILL

1 125.27 (2) is valid outside the municipality that issues it. For the purpose of this
2 ~~subsection paragraph, and subject to par. (b)~~, any person holding a manager's license
3 under s. 125.18 or any member of the licensee's or permittee's immediate family who
4 has attained the age of 18 shall be considered the holder of an operator's license. No
5 ~~person, including a member of the licensee's or permittee's immediate family, other~~
6 ~~than the licensee, permittee or agent may serve fermented malt beverages in any~~
7 ~~place operated under a Class "A" or Class "B" license or permit unless he or she has~~
8 ~~an operator's license, is considered to hold an operator's license, or is at least 18 years~~
9 ~~of age and is under the immediate supervision of the licensee, permittee, agent or a~~
10 ~~person holding or considered to hold an operator's license, who is on the premises at~~
11 ~~the time of the service.~~

12 **SECTION 4.** 125.32 (2) (b) of the statutes is created to read:

13 125.32 (2) (b) No person holding or considered to hold an operator's license
14 under s. 125.17, and no licensee or permittee or agent named in the license or permit
15 if the licensee or permittee is a corporation or limited liability company, may be on
16 premises operated under a Class "B" license or permit where the person is employed
17 or holds an ownership interest, during the person's working hours, if the person has
18 an alcohol concentration, as defined in s. 340.01 (1v), of more than 0.0.

19 **SECTION 5.** 125.32 (3) (b) of the statutes is amended to read:

20 125.32 (3) (b) Class "A" premises may remain open for the conduct of their
21 regular business but may not sell fermented malt beverages between 12 midnight
22 and 8 a.m. Subsection (2) (a) does not apply to Class "A" premises between 12
23 midnight and 8 a.m. or at any other time during which the sale of fermented malt
24 beverages is prohibited by a municipal ordinance adopted under par. (d).

25 **SECTION 6.** 125.68 (2) (title) of the statutes is amended to read:

BILL**SECTION 6**

1 125.68 (2) (title) OPERATORS' LICENSES; AND "CLASS A", "CLASS B" OR "CLASS C"
2 PREMISES SUPERVISION.

3 **SECTION 7.** 125.68 (2) of the statutes is renumbered 125.68 (2) (a) and amended
4 to read:

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

24 **SECTION 8.** 125.68 (2) (b) of the statutes is created to read:

BILL

1 125.68 (2) (b) No person holding or considered to hold an operator's license
2 under s. 125.17, and no licensee or permittee or agent named in the license or permit
3 if the licensee or permittee is a corporation or limited liability company, may be on
4 premises operated under a "Class B" license or permit where the person is employed
5 or holds an ownership interest, during the person's working hours, if the person has
6 an alcohol concentration, as defined in s. 340.01 (1v), of more than 0.0.

7 **SECTION 9.** 945.041 (3) of the statutes is amended to read:

8 945.041 (3) Such proceeding shall be in the name of the state and the issues
9 may be determined by a jury. It shall be instituted by the filing of a petition and
10 service of a notice as herein provided. The petition shall be directed to the circuit
11 court and shall set forth a clear and concise statement of the grounds that are alleged
12 to exist justifying a revocation of the license or permit under sub. (1), and shall
13 request an order revoking such license or permit. It shall also request an injunction
14 restraining the defendant from thereafter knowingly suffering or permitting any
15 such devices or any horse race betting to be set up, kept, managed, used or conducted
16 upon premises directly or indirectly controlled by the defendant. Upon the filing of
17 such petition the court shall fix a time for hearing not to exceed 30 days from the date
18 of filing at a place within the judicial circuit, and a copy of the petition and a notice
19 of the time and place of hearing shall be served upon the defendant not less than 20
20 days prior to the date of hearing. Such service shall be made in the same manner as
21 a summons is served in a civil action, except that it may also be made by leaving a
22 copy of said petition and notice with any person charged with the operation of the
23 licensed premises under s. 125.68 (2) (a). The allegations of the petition shall be
24 deemed controverted and shall be at issue without further pleading by the
25 defendant. No hearing shall be adjourned except for cause. If upon such hearing the

BILL**SECTION 9**

1 court finds that the allegations of the petition are true, it shall issue a written order
2 revoking the license or permit and shall likewise enjoin the defendant from
3 thereafter knowingly suffering or permitting any gambling devices referred to in
4 sub. (1) or any horse race betting to be set up, kept, managed, used or conducted upon
5 premises directly or indirectly controlled by the defendant. The district attorney
6 shall forthwith cause a copy of the order to be filed with the issuing authority of the
7 license or permit and shall cause a copy to be served upon the defendant as above
8 provided or the defendant's attorney. The revocation and injunction shall become
9 effective upon such service. In cases where a license is issued by a town, city or
10 village, a copy of the order shall also be filed with the department of revenue.

11

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0961/2ins

ARG:.....

Cbjk

1 **INSERT ANAL:**

(no P) If a person is convicted of violating this prohibition three or more times, any operator's license, manager's license, or Class "B" or "Class B" license issued to the person or to a corporation for which the person is a designated agent must be revoked.

2

3 **INSERT 2-1:**

4 **SECTION 1.** 125.12 (7) of the statutes is created to read:

5 **125.12 (7) REVOCATION OF RETAIL LICENSES AND PERMITS, MANAGERS' LICENSES, AND**
6 **OPERATORS' LICENSES FOR CERTAIN VIOLATIONS.** (a) Upon receiving notice that a person
7 issued a retail license under s. 125.26 or 125.51, a manager's license under s. 125.18,
8 or an operator's license under s. 125.17, or that a person named in such a retail
9 license as an agent for a licensee that is a corporation or limited liability company,
10 has been convicted 3 or more times of violating s. 125.32 (2) (b) or 125.68 (2) (b) within
11 the issuing municipality, the municipality shall revoke the license, following the
12 procedure specified in sub. (2) (ar) to (d).

13 (b) Upon receiving notice that a person issued a retail permit under s. 125.27
14 or 125.51, or that a person named in such a retail permit as an agent for a permittee
15 that is a corporation or limited liability company, has been convicted 3 or more times
16 of violating s. 125.32 (2) (b) or 125.68 (2) (b), the department shall revoke the permit,
17 following the procedure specified in sub. (5).

18

Barman, Mike

From: Schroeder, Ryan
Sent: Tuesday, January 06, 2009 5:28 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-0961/2 Topic: Requiring bartenders to be sober

This is a rush.... Thank you for your attention to this matter

Please Jacket LRB 09-0961/2 for the ASSEMBLY.

Barman, Mike

From: Schroeder, Ryan
Sent: Tuesday, January 06, 2009 5:30 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-0961/2 Topic: Requiring bartenders to be sober

I'm sorry disregard the previous emails. It looks as though our office already got the jacket version. Thank you.
Please Jacket LRB 09-0961/2 for the ASSEMBLY.