



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

June 23, 2009

MEMORANDUM

To: Representative Berceau

From: Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263
Cathlene Hanaman, Legislative Attorney, (608) 267-9810

Subject: Technical Memorandum to **2009 AB 287** (LRB-0905/1) by **DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

June 8, 2009

TO: Joe Kreye and Cathlene Hanaman

FROM: Paul Ziegler
Department of Revenue

SUBJECT: Technical Memorandum on Assembly Bill 287, relating to increasing the tax on fermented malt beverages

The Department of Revenue has several concerns with the bill:

(1) The bill proposes an effective date of the later of July 1, 2009 or the day after publication of the 2009-11 biennial budget act. To implement the tax increase under the bill, the Department of Revenue would need 90 days to revise fermented malt beverage forms and mail letters to all fermented malt beverage account holders. To allow sufficient time to make these administrative changes, the department recommends an effective date of the first day of the third month after publication.

(2) The bill provides for a distribution of the \$8 per barrel increase in the tax rate to support programs to reduce alcohol related crimes and for substance abuse treatment and prevention efforts. The distribution, however, does not take into account the credit for "eligible producers."

The "eligible producer" credit reduces the amount of the tax remitted by smaller beer producers (producing under 300,000 barrels annually) by 50% of the amount of tax on the first 50,000 barrels. Since the bill allocates the additional revenue based on the tax imposed under s.139.02 (1), no reduction to the allocations for the eligible producer credit under s.139.02 (2) is allowed under section 9 of the bill. As a consequence, the remaining "unallocated" general fund revenue under the bill is expected to be smaller than under current law.

In addition, the eligible producer credit for smaller brewers is based on calendar year production. The revenue distribution requirements to specific appropriations in section 9 of the bill, however, are on a fiscal year basis. Given this timing difference, the determination of the precise amount of taxes imposed per barrel on a fiscal year basis cannot be perfectly known without substantial administrative effort.

To address the two concerns above, the bill could be amended so that the revenue distributions would be based on the percentage of tax collections net of the eligible producer credit under s.139.02 (2). Section 9 of the bill could be amended read as follows:

139.27 Revenue distribution. (1) In each fiscal year, beginning in fiscal year 2009 -10, an amount of the taxes imposed under s. 139.02 equal to 40% of fiscal year tax collections,

net of the eligible producer credit, shall be credited to the appropriation account under s. 20.435 (7) (b).

(2) In each fiscal year, beginning in fiscal year 2009–10, an amount of the taxes imposed under s. 139.02 equal to 20% of fiscal year tax collections, net of the eligible producer credit, shall be credited to the appropriation account under s. 20.505 (6) (g).

(3) In each fiscal year, beginning in fiscal year 2009–10, an amount of the taxes imposed under s. 139.02 equal to 20% of fiscal year tax collection, net of the eligible producer credit, shall be credited to the appropriation account under s. 20.435 (7) (gm).

(3) The author may wish to further amend the language crediting the appropriation under s.20.435 (7) (b) in Section 9 of the bill (page 5, lines 18-20), to reflect that the appropriation is a GPR funded, rather than a program revenue funded, appropriation.

If you have any questions regarding this technical memorandum, please contact Jacek Cianciara at (608) 266-8133.

cc: Representative Berceau