

2011 DRAFTING REQUEST

Bill

Received: 08/15/2011

Received By: agary

Wanted: As time permits

Companion to LRB: -2947

For: Dale Kooyenga (608) 266-9180

By/Representing: self / Bill Neville

May Contact:

Drafter: agary

Subject: Beverages

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Kooyenga@legis.wi.gov

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

Pre Topic:

No specific pre topic given

Topic:

Creating exceptions for manufacturing beer and wine at supply stores and for educational purposes

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>
/?				_____			State Tax
/P1	agary 08/17/2011	kfollett 08/19/2011	rschluet 08/19/2011	_____	sbasford 08/19/2011		State Tax
/1	agary 09/20/2011	kfollett 09/20/2011	phenry 09/20/2011	_____	sbasford 09/20/2011	ggodwin 09/20/2011	

FE Sent For:

at intro
9-29-11

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FE Sent For:		1/15f 9/20	a bpr	X			<END>

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/?	agary	1PIS 8/11		_____			State Tax

FE Sent For:

<END>

Gary, Aaron

From: Neville, William
Sent: Monday, June 13, 2011 11:44 AM
To: Gary, Aaron
Subject: Office of Rep. Kooyenga

Attachments: 20110613114608283.pdf



20110613114608283.pdf (243 KB)...

I left you voicemail message in regards to this email. Thank you for your time.

Bill Neville
Legislative Assistant
Office of State Representative Dale Kooyenga 14th Assembly District
17 North, State Capitol
608-266-9180

-----Original Message-----
From: Network Scanning
Sent: Monday, June 13, 2011 11:46 AM
To: Neville, William
Subject: Message from "16NORTH"

This E-mail was sent from "16NORTH" (Aficio MP 6001).

Scan Date: 06.13.2011 11:46:08 (-0500)
Queries to: networkscanning@legis.wisconsin.gov

H/c from Bill Neville - VM 6/13 - 6-9180

• wants to discuss brew on premises



State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK ROAD • Mail Stop 624A • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX (608) 266-5718
<http://www.revenue.wi.gov>

Scott Walker
Governor

Richard G. Chandler
Secretary of Revenue

May 20, 2011

Michael S. Maistelman
Maistelman & Associates, LLC
5027 W. North Avenue
Milwaukee, WI 53208-1132

*POINT BACK TO
FIX THIS*

Dear Mr. Maistelman:

Thank you for your inquiries regarding the manufacturing of fermented malt beverages and wine at commercial beer/wine making supply stores, and at the University of Wisconsin.

Wisconsin alcohol beverage law requires permits to commercially engage in these activities; there are exceptions to this in sec. 125.06, Wis. Stats., under limited circumstances for those who manufacture fermented malt beverages and wine at one's home, farm or place of residence. These exceptions do not apply to beer/wine making supply stores.

In addition, sec. 125.09(1), Wis. Stats., prohibits the consumption of alcohol beverages at public places (i.e., places of business), unless the person has the appropriate license or permit.

Wisconsin state statutes do not provide for specific exceptions "for educational purposes."

However, the Attorney General has opined that the state government and its agencies (i.e., the state university system) are not to be considered prohibited under this statute, because the statute does not clearly include these entities. Therefore, in the absence of express prohibition language, the University may manufacture beer and wine for educational purposes on state university property with the approval of the Board of Regents.

Sincerely,

Richard G. Chandler
Secretary of Revenue

cc: Representative Dale Kooyenga

Gary, Aaron

From: Gary, Aaron
Sent: Monday, June 13, 2011 12:14 PM
To: Neville, William
Subject: RE: Office of Rep. Kooyenga

Attachments: 07-2354_101.pdf; 97-0284_302.pdf



07-2354_101.pdf
(32 KB)



97-0284_302.pdf
(38 KB)

Bill,

I received your voice mail message. I'm tied up with budget amendments right now but we can discuss further when the budget is over.

It sounds like what you want is to authorize "brew-on-premises" stores like those that are legal in many other states. (I moved here from Idaho and they were very popular in Idaho.) Basically these are small businesses where people can go to be "homebrewers" but with experts to help them out. The business usually supplies the ingredients and the site, and the patron brews at this store with help, then returns after fermentation to pick up the fruits of his/her labor.

For about 15 years, efforts have been made in Wisconsin to make this type of operation legal. I am attaching two bills, one from 2007 and one from 1997. So far, nothing like this has passed. After you look over these bills, let me know if this is what you had in mind (particularly the most recent, the 2007 bill). As to operations at the UW, I agree with DOR - legal authority indicates that the state does not need this type of statutory authorization, since the state is the sovereign.

Thanks. Aaron

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

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

From: Neville, William
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Subject: Office of Rep. Kooyenga

I left you voicemail message in regards to this email. Thank you for your time.

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Legislative Assistant
Office of State Representative Dale Kooyenga 14th Assembly District
17 North, State Capitol
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Queries to: networkscanning@legis.wisconsin.gov

Meeting w/

8/16

17N

Rep. Kozyra

- least restrictive as possible
- less restrictions

primary purpose is selling homebrew equity.

125.06 at beer wine making supply stores

educational purposes →

homebrewers w/o compensation

production of beer or wine

for educational purposes

limitations that apply to homebrewers would also apply to people who brew at these stores

1

2

3

allow homebrewed beer & wine up to 20 gallons → transport

can't sell final product - can't sell the homebrew

to ~~any~~ any place for consumption

Idaho: what is their statute?

wants draft next week



State of Wisconsin
2011 - 2012 LEGISLATURE

in
8/17



LRB-2653/P1

ARG:...

needed
by 8/23

D-Note

kyf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

- 1 **AN ACT ...; relating to:** the manufacture of wine and fermented malt beverages
- 2 not offered for sale.

Analysis by the Legislative Reference Bureau

Under current law, a person is not required to hold a license or permit to manufacture wine or fermented malt beverages (beer) at his or her home, farm, or place of residence if the wine or beer is to be consumed by the person or his or her family and guests and if the person receives no compensation. Also under current law, a person is not required to pay an occupational tax on wine or beer made at home solely for consumption at home by the person's family and guests, without compensation.

Under this bill, a person is not required to hold a license or permit to manufacture wine or beer at a business primarily engaged in selling supplies and equipment for use by homebrewers or home winemakers, or to taste the wine or beer at this business, if the wine or beer is not sold or offered for sale. A person is also not required to hold a license or permit, manufacture wine or beer for educational purposes, or to taste the wine or beer at the place of manufacture, if the wine or beer is not sold or offered for sale. A person who manufactures wine or beer under these circumstances is also not required to pay an occupational tax. The bill also specifies that a person who manufactures wine or beer at his or her home, farm, or place of residence for consumption by the person or his or her family and guests, and who receives no compensation, is not required to pay an occupational tax on the wine or beer regardless of where it is consumed.

to

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* 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.** 125.06 (3g) and (3r) of the statutes are created to read:

2 125.06 (3g) WINE OR FERMENTED MALT BEVERAGES MADE AT SUPPLY STORES. The
3 manufacture of wine or fermented malt beverages by any person at a business
4 primarily engaged in selling supplies and equipment for use by homebrewers or
5 home winemakers, and, notwithstanding s. 125.09 (1), the tasting at the business of
6 wine or fermented malt beverages so manufactured, if the wine or fermented malt
7 beverages ^{are} (is) not sold or offered for sale.

8 125.06 (3r) WINE OR FERMENTED MALT BEVERAGES MADE FOR EDUCATIONAL
9 PURPOSES. The manufacture of wine or fermented malt beverages for educational
10 purposes, and, notwithstanding s. 125.09 (1), the tasting of the wine or fermented
11 malt beverages at the place of manufacture, if the wine or fermented malt beverages
12 ^{are} (is) not sold or offered for sale.

13 **SECTION 2.** 139.04 (1) of the statutes is amended to read:

14 139.04 (1) Making of wine, cider or ~~fermented malt beverages~~ at home solely
15 for consumption therein and use thereof in such home by the family and guests
16 without compensation, or manufacturing wine or fermented malt beverages in
17 compliance with the limitations specified in s. 125.06 (3), (3g), or (3r).

History: 1973 c. 90; 1985 a. 29; 2007 a. 20; 2009 a. 177.

(END)

D-Note

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

LRB-2653/P1dn

ARG:...

gf

Date

ATTN: Rep. Kooyenga

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

There is no state law limitation on transporting homebrewed beer or wine, [✓]see s. 125.06 (3), so I have not included the requested provision authorizing transportation of up to 20 gallons for consumption away from home. The problem under state law is the language in s. 139.04[✓](1) relating to the occupational tax exception, which I have modified in this draft. The analysis also briefly alludes to this issue.

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-2653/P1dn
ARG:kjf:rs

August 19, 2011

ATTN: Rep. Kooyenga

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

There is no state law limitation on transporting homebrewed beer or wine, *see* s. 125.06 (3), so I have not included the requested provision authorizing transportation of up to 20 gallons for consumption away from home. The problem under state law is the language in s. 139.04 (1) relating to the occupational tax exception, which I have modified in this draft. The analysis also briefly alludes to this issue.

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

Gary, Aaron

From: Gary, Aaron
Sent: Tuesday, September 20, 2011 11:56 AM
To: Neville, William
Subject: LRB-2653

Bill,

Before I convert this draft to a /1, I do want to point one thing out, as this issue may come up later. It is a little odd, but you should know about it. In bill section 2, I tried not to change anything that wasn't specifically requested. So I left the provision "status quo" as it relates to cider. However ...

In ch. 125, including s. 125.06, "wine" has a definition that includes cider. So the provisions in s. 125.06 (3g) and (3r) apply to cider as well as traditional grape wine. However, wine is not defined the same in ch. 139; there isn't actually a specific definition of it in ch. 139. In ch. 139, a distinction is drawn between wine and cider because wine and cider have different tax rates. See s. 139.03 (2n). But for purposes of homemade wine and homemade cider, and where they can be consumed when they are exempt from excise taxes, does it make sense to distinguish between wine and cider? When wine and cider are considered the same thing in s. 125.06, it might make sense to treat them the same in s. 139.04 (1) as well. I can easily make this change in the redraft if that is what you want.

Please let me know. Sorry I didn't raise this issue sooner but it didn't really occur to me until recently.

Please call if you want to discuss further. Aaron

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

9/20 t/c from Bill - voice mail
 • /P1 is good → wants
 /1 Friday for co-parenship



TODAY
the earlier
the better
in 9/20



RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No changes
Regen

1 AN ACT to amend 139.04 (1); and to create 125.06 (3g) and (3r) of the statutes;
2 relating to: the manufacture of wine and fermented malt beverages not offered
3 for sale.

Analysis by the Legislative Reference Bureau

Under current law, a person is not required to hold a license or permit to manufacture wine or fermented malt beverages (beer) at his or her home, farm, or place of residence if the wine or beer is to be consumed by the person or his or her family and guests and if the person receives no compensation. Also under current law, a person is not required to pay an occupational tax on wine or beer made at home solely for consumption at home by the person's family and guests, without compensation.

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6 wine or fermented malt beverages so manufactured, if the wine or fermented malt
7 beverages are not sold or offered for sale.

8 125.06 (3r) WINE OR FERMENTED MALT BEVERAGES MADE FOR EDUCATIONAL
9 PURPOSES. The manufacture of wine or fermented malt beverages for educational
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13 SECTION 2. 139.04 (1) of the statutes is amended to read:

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16 without compensation, or manufacturing wine or fermented malt beverages in
17 compliance with the limitations specified in s. 125.06 (3), (3g), or (3r).

18

(END)

Godwin, Gigi

From: Neville, William
Sent: Tuesday, September 20, 2011 1:29 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-2653/1 Topic: Creating exceptions for manufacturing beer and wine at supply stores and for educational purposes

Please Jacket LRB 11-2653/1 for the ASSEMBLY.