



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2013 Wisconsin Act 65
[2013 Assembly Bill 61]

**Cause of Action for Violation of
Underage Drinking Law**

2013 Wisconsin Act 65 creates a private right of action that a licensed alcohol beverage retailer may bring against a person who engages in conduct that violates the state's underage drinking law. The following conditions must be satisfied before an alcohol beverage retailer may bring such an action:

- The conduct must occur on the alcohol beverage retailer's premises.
- The alcohol beverage retailer must mail a notice of the retailer's intent to bring the action to the last-known address of the underage person or the underage person's parent, as applicable, at least 15 days prior to filing the action.
- The alcohol beverage retailer must not have been convicted of, received a citation for, or been charged with a violation of the underage drinking law related to the same incident, occurrence, or conduct giving rise to the civil action, unless the retailer is entitled to a defense under the underage drinking law.
- The alcohol beverage retailer must have reported the suspected conduct to law enforcement at or near the time that the conduct was first discovered.

An alcohol beverage retailer may bring an action under the Act regardless of whether the underage person has been convicted or received a citation for the person's violation of the underage drinking law. However, the alcohol beverage retailer has the burden of proving the violation by a preponderance of the evidence.

If the underage person is a minor and not emancipated, the Act authorizes the civil action to be brought against the underage person's parent or guardian.

If an alcohol beverage retailer prevails in a civil action brought under the Act, the Act requires a court to award \$1,000 in damages and the costs of bringing the civil action.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

In addition, the Act creates an exception to the underage drinking law for certain persons assisting law enforcement. Under the Act, the general prohibitions regarding underage drinking on the premises of licensed alcohol retailers do not apply to an underage person who is employed by or assisting a law enforcement agency in carrying out enforcement activities to determine compliance with, or investigate potential violations of, the underage drinking law.

Effective date: The Act took effect on December 14, 2013.

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