

2015 DRAFTING REQUEST

Bill

Received: **9/10/2014** Received By: **agary**
Wanted: **As time permits** Same as LRB:
For: **Tim Carpenter (608) 266-8535** By/Representing: **Stuart Ewy**
May Contact: Drafter: **agary**
Subject: **Beverages** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Carpenter@legis.wisconsin.gov**
Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Prohibit sale of powdered alcohol

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>
/?	agary 9/29/2014			_____			
/P1	agary 10/15/2014	evinz 10/15/2014	jmurphy 10/3/2014	_____	srose 10/3/2014		Crime
/1			jfrantze 10/15/2014	_____	sbasford 10/15/2014	mbarman 1/21/2015	Crime

FE Sent For:

<END>

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1 eev
10/15/14

Stuart Ewy
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/?	agary	pl eev 10/3/14	pl eev 10/3/14	_____	_____	_____	_____

FE Sent For:

<END>

Gary, Aaron

To: LRB.Legal
Subject: RE: drafting request - ban powdered alcohol

From: Ewy, Stuart
Sent: Friday, August 22, 2014 10:30 AM
To: LRB.Legal
Cc: Sen.Carpenter
Subject: drafting request - ban powdered alcohol

LRB Legal

Hello,

Can you please draft a bill for the upcoming legislative session that will ban the sale of powdered alcohol in Wisconsin?

For reference, it appears that similar legislation has been introduced in other states.

<http://www.washingtonpost.com/blogs/govbeat/wp/2014/04/30/lawmakers-begin-moves-to-ban-powdered-alcohol/>

If you have any questions or comments, please feel free to contact me.

Thanks very much!

Regards,

G. Stuart Ewy
Office of Senator Tim Carpenter
State Capitol 109 S
608.266.8535

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GovBeat

Lawmakers begin moves to ban powdered alcohol



A



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By Reid Wilson April 30



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A Red Bull energy drink mixed with vodka sits on the bar at Sloppy Joe's in Key West, Fla. (Joe Raedle/Getty Images)

The definition of a mixed drink could change if a new product, freeze-dried alcohol, wins federal approval in coming months. But a Minnesota lawmaker doesn't want to see the powdered substance, known as Palcohol, on store shelves.

Minnesota state Rep. Joe Atkins (D) on Tuesday introduced new legislation that would ban sales of powdered alcohol, while a similar bill is moving through Vermont's legislature.

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The manufacturer of Palcohol is still seeking approval to market its product from the federal Alcohol and Tobacco Tax and Trade Bureau. The company resubmitted an application after the bureau said it needed more information about the amount of alcohol each individual packet contained.

Palcohol is intended for hikers and backpackers who might want to enjoy a drink after a long day on the trail, the company says on its Web site. It offers powdered vodka and rum, along with a cosmopolitan, a mojito, a “powderita” and a lemon drop. The company says airlines could use the powder, saving fuel costs due to the reduced weight, and that an ice cream manufacturer is considering incorporating the powder into its product.

Perhaps most disturbingly, companies in Sweden and Canada want to try the stuff in their windshield-washer fluids, Palcohol’s Web site claims.

But opponents say the product could be attractive to children and bring up new health risks.

“Virtually every possible use for powdered alcohol is nefarious, not to mention potentially dangerous,” Atkins said in a statement introducing the bill. “The different flavorings make it appealing to children and students who could easily sneak packets into school. This powder could also be inhaled or snorted, bringing a whole new world of problems into play.”

In Vermont, the head of the state's Department of Liquor Control said he would work with legislators to ban the product. The state Senate passed a measure that ban sales of the powdered substance until the legislature moves to proactively allow its sale. The measure, sponsored by state Sen. Kevin Mullin (R), now goes to the state House for approval.

States have moved to ban other alternative methods of ingesting alcohol in recent years, most prominently through vapors. Legislators in more than 20 states have moved to ban machines that allow consumers to ingest alcohol through vapors; earlier this month, Maryland banned another form of vaporized alcohol known as the Vaportini.

Reid Wilson covers state politics and policy for the Washington Post's GovBeat blog. He's a former editor in chief of The Hotline, the premier tip sheet on campaigns and elections, and he's a complete political junkie.



in
9/29



Leev

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV
xref N/A

D-note

gen cat

1 AN ACT . . . relating to: prohibiting the sale of powdered alcohol.

Analysis by the Legislative Reference Bureau

Current law regulates the sale of alcohol beverages, which are beverages containing at least 0.5 percent alcohol by volume.

Under this bill, a person may not sell or offer for sale powdered alcohol. The bill defines powdered alcohol as any substance that is sold in powder or crystalline form, that contains more than 0.4 percent alcohol by weight, and that is fit for human consumption either in its powder or crystalline form or after it is added to food or reconstituted with water or another liquid. There are exceptions under the bill, including for powdered alcohol, used for nonbeverage purposes, that is used by hospitals or for scientific research or other medicinal, pharmaceutical, or industrial purposes. A person who violates the prohibition must be fined not more than \$1,000 or imprisoned for not more than 90 days or both. ✓

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

2 SECTION 1. 125.09 (8) of the statutes is created to read: ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0137/P1dn

ARG: /:....

leev

(date)

ATTN: Stuart Ewy

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

As requested, this draft prohibits the sale of powdered alcohol. In preparing this draft, I have reviewed the materials you provided as well as the legislation or proposed legislation from several states, including New York, Minnesota, Vermont, South Carolina, and Alaska. I assume this bill is intended to address the possibility that "Palcohol" might eventually receive federal label approval and be sold in the United States. Palcohol is a dehydrated alcohol product that, when reconstituted with water, would be considered a distilled spirit.

There is at least one dehydrated beer product currently being produced that I believe is commercially available in the United States. My understanding is that Pat's Backcountry Beverages, located in Colorado, produces a dehydrated beer marketed to backpackers. This beer concentrate is sold in the form of a gel, which is mixed with carbonated water. This bill would not prohibit the sale of a beer concentrate in gel form.

Under federal law, it is legal for a commercial brewer to produce a beer concentrate for shipment by removing water from the beer. After shipment, the beer is reconstituted with water by the brewer before being bottled for sale. The beer must be labeled as produced from concentrate and I'm not sure if any commercial brewers actually utilize this process. I am also not sure whether the concentrate takes the form of a slush (like juice concentrate), gel, or powder, so I am not sure how this bill might affect a brewer that does utilize the process.

This bill refers to alcohol by weight, rather than alcohol by volume. I assume that alcohol by weight is a more appropriate measurement for a powder than alcohol by volume. It is my understanding that 0.4 percent alcohol by weight is approximately equal to 0.5 percent alcohol by volume. You may wish to verify this with the Department of Revenue (DOR) or the federal Alcohol and Tobacco Tax and Trade Bureau (TTB), both of which have more technical expertise than I.

Because this bill does not include a specific penalty provision, the general penalty under s. 125.11 (1), stats., applies to violations under the bill.

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.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0137/P1dn
ARG:eev:jm

October 3, 2014

ATTN: Stuart Ewy

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

As requested, this draft prohibits the sale of powdered alcohol. In preparing this draft, I have reviewed the materials you provided as well as the legislation or proposed legislation from several states, including New York, Minnesota, Vermont, South Carolina, and Alaska. I assume this bill is intended to address the possibility that "Palcohol" might eventually receive federal label approval and be sold in the United States. Palcohol is a dehydrated alcohol product that, when reconstituted with water, would be considered a distilled spirit.

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Under federal law, it is legal for a commercial brewer to produce a beer concentrate for shipment by removing water from the beer. After shipment, the beer is reconstituted with water by the brewer before being bottled for sale. The beer must be labeled as produced from concentrate and I'm not sure if any commercial brewers actually utilize this process. I am also not sure whether the concentrate takes the form of a slush (like juice concentrate), gel, or powder, so I am not sure how this bill might affect a brewer that does utilize the process.

This bill refers to alcohol by weight, rather than alcohol by volume. I assume that alcohol by weight is a more appropriate measurement for a powder than alcohol by volume. It is my understanding that 0.4 percent alcohol by weight is approximately equal to 0.5 percent alcohol by volume. You may wish to verify this with the Department of Revenue (DOR) or the federal Alcohol and Tobacco Tax and Trade Bureau (TTB), both of which have more technical expertise than I.

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

Gary, Aaron

From: Ewy, Stuart
Sent: Friday, October 10, 2014 11:32 AM
To: Gary, Aaron
Subject: LRB-0137/P1dn banning powdered alcohol

Aaron Gary

Hi Aaron,
Thanks for your research and work on the preliminary draft for banning sale of powdered alcohol.
It looks good, and it is okay to turn it into an introducible "/1" draft.
Thanks again

Regards,

G. Stuart Ewy
Office of Senator Tim Carpenter
State Capitol 109 S
608.266.8535



in
10/13



soon

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No changes

1 AN ACT ^{regen} to create 125.09 (8) of the statutes; relating to: prohibiting the sale of
2 powdered alcohol.

Analysis by the Legislative Reference Bureau

Current law regulates the sale of alcohol beverages, which are beverages containing at least 0.5 percent alcohol by volume.

Under this bill, a person may not sell or offer for sale powdered alcohol. The bill defines powdered alcohol as any substance that is sold in powder or crystalline form, that contains more than 0.4 percent alcohol by weight, and that is fit for human consumption either in its powder or crystalline form or after it is added to food or reconstituted with water or another liquid. There are exceptions under the bill, including for powdered alcohol, used for nonbeverage purposes, that is used by hospitals or for scientific research or other medicinal, pharmaceutical, or industrial purposes. A person who violates the prohibition must be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

Barman, Mike

From: Ewy, Stuart
Sent: Wednesday, January 21, 2015 10:46 AM
To: LRB.Legal
Subject: Draft Review: LRB -0137/1 Topic: Prohibit sale of powdered alcohol

Please Jacket LRB -0137/1 for the SENATE.