

**2015 DRAFTING REQUEST**

**Bill**

Received: **9/10/2014** Received By: **agary**  
Wanted: **As time permits** Same as LRB:  
For: **Mark Miller (608) 266-9170** By/Representing: **John Anderson**  
May Contact: Drafter: **agary**  
Subject: **Beverages** Addl. Drafters:  
Extra Copies:

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

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Taste samples of cider provided by a winery

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**Instructions:**

See attached

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**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 9/30/2014			_____			
/P1	agary 1/23/2015	csicilia 1/23/2015	rschluet 1/23/2015	_____	lparisi 10/17/2014		
/1				_____	srose 1/23/2015	mbarman 1/23/2015	

FE Sent For:

NOT  
NEEDED

<END>

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/?	agary 9/30/2014						
/P1		wjackson 10/17/2014	jmurphy 10/17/2014		lparisi 10/17/2014		

FE Sent For:

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*12/23/15*  
**<END>**

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*Please jacket*  
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*The ARG*

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/? agary

1/pt Wlj 10/17

Jan 10/17

FE Sent For:

1 g/s 11/2  
15

<END>

## Gary, Aaron

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**From:** Anderson, John  
**Sent:** Wednesday, September 10, 2014 10:44 AM  
**To:** Gary, Aaron  
**Subject:** FW: hard Apple Cider

Thanks, Aaron. We have a constituent who manufactures hard apple cider. He is able to provide 'tastings' at his orchard, provided that the product is his alone. He would like to be able to have tastings of a variety of hard apple ciders from different orchards. Sen. Miller requests a draft to change to enable our constituent to make available other ciders for tastings in addition to his own. Melissa Schmidt at Leg Council provide us with the information below the law. Let me know if you have questions for us. Thank you.

John Anderson  
Office of Senator Mark Miller  
608-266-9170

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**From:** Schmidt, Melissa  
**Sent:** Friday, September 05, 2014 2:25 PM  
**To:** Anderson, John  
**Subject:** RE: hard Apple Cider

John,

The statutes regulate hard ciders as wine. Thus, in order to manufacture hard cider, a person needs a winery permit. A winery permit is governed under s. 125.53 (1), Stats., which authorizes a winery to engage in the following activities:

- The manufacture and bottling of wine on the premises covered by the permit for sale to wholesalers holding a permit under s. 125.54.
- On the winery premises and without obtaining a rectifier's permit, possess intoxicating liquor and mix or blend intoxicating liquor to produce wine sold to wholesalers holding a permit under s. 125.54.
- Offer on the premises **taste samples of wine manufactured on the premises** to persons who have attained the legal drinking age.
- In addition to the winery permit, hold either one "Class A" liquor license or one "Class B" liquor license, but not both. The "Class A" liquor license or "Class B" liquor license may either be issued for the winery premises or for real estate owned or leased by the winery. If a "Class A" or "Class B" liquor license has also been issued to the winery, the winery may provide wine manufactured, mixed, or blended on the winery premises directly to the "Class A" or "Class B" premises and may offer the taste samples on the "Class A" or "Class B" premises.
- A winery holding a permit under this section may also make retail sales and provide taste samples on county or district fair fairgrounds as provided in s. 125.51 (10), but this wine sold at retail or provided as taste samples shall be purchased from a wholesaler holding a permit under s. 125.54.

As you can see from the bolded text above, an orchard producing hard cider may provide taste samples of the hard cider (wine) at its licensed premises, but only the hard cider manufactured on the premises (orchard). That being said, if the orchard wanted to provide taste samples of non-alcoholic cider from another orchard, it could do that as non-alcoholic cider is not considered a wine.

It is important to note that s. 125.04 (4), Stats., provides that a person does not need a license or permit to manufacture or sell "unadulterated apple cider." There is no definition of what constitutes "unadulterated apple cider." However, in

talking with DOR, it appears that they consider the fermenting process to be adulteration, thus making hard cider an adulterated cider.

Please let me know if you have any further questions.

Sincerely,

*Melissa Schmidt*  
Senior Staff Attorney  
Wisconsin Legislative Council  
Ph: (608) 266-2298  
Fax: (608) 266-3830

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**From:** Anderson, John  
**Sent:** Wednesday, September 03, 2014 3:18 PM  
**To:** Schmidt, Melissa  
**Subject:** RE: hard Apple Cider

Thanks, Melissa.

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**From:** Schmidt, Melissa  
**Sent:** Wednesday, September 03, 2014 3:02 PM  
**To:** Anderson, John  
**Subject:** RE: hard Apple Cider

Thank you for this information. I will continue looking into a couple of issues. I have a call into DOR and should have an answer for you by tomorrow.

*Melissa Schmidt*  
Senior Staff Attorney  
Wisconsin Legislative Council  
Ph: (608) 266-2298  
Fax: (608) 266-3830

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**From:** Anderson, John  
**Sent:** Wednesday, September 03, 2014 2:43 PM  
**To:** Schmidt, Melissa  
**Subject:** hard Apple Cider

Hi Melissa. I spoke with our constituent, Jim Lindemann of Cider House of Wisconsin, McFarland. They do hold a Wine permit. They are a bonded winery with the Alcohol and Tobacco Tax and Trade Bureau (TTB).

They have no other permits from Wis DOR. Fed requirements provide that for him to sell his cider on premise, he must produce it on premise. Which he does.

The alcohol content varies between 5% and 7%, depending on the product. They do not exceed the 7% limit.

Adulterated apple cider would be enhanced with something like ever-clear. They do not do that. They sell unadulterated hard apple cider.

Let me know if you have more questions. Thank you.

John Anderson  
Office of Senator Mark Miller  
608-266-9170



in  
9/30



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

*D-note*

*Gen Cat*

1 AN ACT ...; relating to: taste samples of fermented apple cider provided by a  
2 winery.

***Analysis by the Legislative Reference Bureau***

Current law defines wine to include products that contain at least 0.5 percent but not more than 21 percent alcohol by volume (ABV) and that are obtained from the fermentation of grapes or other fruits, including fermented apple cider. A winery permit authorizes the manufacture and bottling of wine on the winery premises for sale to wholesalers and the provision of taste samples on the winery premises of wine manufactured on the premises.

*move*

This bill authorizes a winery to provide taste samples on the winery premises and without charge of cider manufactured by another Wisconsin winery. For purposes of the bill, "cider" means fermented apple cider with an alcohol content not exceeding 7 percent ABV. The bill also allows a Wisconsin winery to provide cider to another Wisconsin winery for use by the other winery in providing taste samples.

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

3 SECTION 1. 125.53 (3) of the statutes is created to read:  
4 125.53 (3) (a) In this subsection, "cider" has the meaning given in s. 139.01  
5 (2m). ✓



1 (b) In addition to any authorization specified in sub. (1), a winery holding a  
2 permit under this section may do any of the following:

3 1. Provide taste samples, on the winery premises, of cider manufactured by  
4 another winery that holds a permit under this section. These taste samples may be  
5 provided only to persons who have attained the legal drinking age and, if provided,  
6 shall be provided free of charge.

7 2. Provide cider directly to another winery that holds a permit under this  
8 section for use in providing taste samples under subd. 1. ✓

9 (END)

*J. Note*

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

LRB-0141/P1dn

ARG:.....

WJ

Date

ATTN: John Anderson

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

Based on the correspondence with your constituent that was provided to me, I used a definition of cider in this draft that is limited to cider containing not more than 7 percent alcohol by volume. Please advise if this is not consistent with your intent.

Under current law, a winery that provides taste samples of its own wine (including cider) on the winery premises is not subject to restrictions on the quantity of the taste samples or the hours during which the taste samples may be provided. I have therefore not included in this bill these types of restrictions for taste samples of cider produced by other wineries.

The bill allows taste samples only of the cider of Wisconsin wineries. This may be viewed as discriminating against out-of-state wineries. Would you prefer that the bill limit taste samples to those provided by small wineries, regardless of their state of operation?

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-0141/P1dn  
ARG:wlj:jm

October 17, 2014

ATTN: John Anderson

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

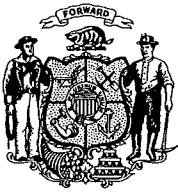
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Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us



State of Wisconsin  
2015 - 2016 LEGISLATURE

in  
1/23



LRB-0141/01  
ARG:wlj:jm  
T  
Stays

TODAY

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

No changes

Gen. Cat

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