AN ACT to renumber and amend 125.12 (5); to amend 125.29 (3) (j), 125.295 (1) (i), 125.32 (3) (c), 125.68 (4) (c) 4. and 346.657 (1); and to create 125.06 (14), 125.07 (3) (a) 17., 125.12 (5) (b), 125.26 (2v), 125.27 (5), 125.32 (3m) (k), 125.51 (3) (bv) and 125.51 (5) (f) of the statutes; relating to: the issuance by the Department of Revenue of retail alcohol beverage permits for motor vehicle racetrack grounds; authorizing caterers to make retail sales of alcohol beverages on racetrack grounds; sales of alcohol beverages at the state fair park; closing hours for certain alcohol beverage retailers; and the safe ride program surcharge.

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of Engrossed 2019 Assembly Bill 869, as passed by the assembly on February 20, 2020, consists of the following documents adopted in the assembly on February 20, 2020: the bill as affected by Assembly Amendments 1 and 3. The text also includes the February 28, 2020, chief clerk's corrections to Assembly Amendments 1 and 3.
**Content of Engrossed 2019 Assembly Bill 869:**

This bill authorizes the Department of Revenue to issue retail alcohol beverage permits for motor vehicle racetrack grounds and authorizes caterers to make retail sales of alcohol beverages on racetrack grounds. The bill creates a licensing exception allowing retail sales of alcohol beverages at the state fair park and creates an exception allowing southeast Wisconsin municipalities to authorize extended closing hours for certain alcohol beverage retailers during the time that the 2020 Democratic National Convention is held in Milwaukee. The bill also increases the amount of the safe ride program surcharge.

**New retail permit issued by DOR**

Under current law, with limited exceptions, no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. Municipalities may issue retail Class “B” licenses authorizing the sale of fermented malt beverages (beer), and retail “Class B” licenses authorizing the sale of intoxicating liquor, which includes wine and distilled spirits, to consumers. Under certain circumstances, DOR may issue retail Class “B” and “Class B” permits authorizing the retail sale of beer and intoxicating liquor to consumers.

This bill also authorizes DOR to issue retail Class “B” and “Class B” permits for racetrack grounds. The bill defines “racetrack grounds” as property consisting of at least 300 acres containing a motor vehicle racetrack at least four miles in length capable of hosting professional racing events, and includes any building or other structure on this property associated with the racetrack or with services provided in connection with events held at the racetrack. Under the bill, DOR may issue Class “B” and “Class B” permits, for locations within racetrack grounds, to the owner or operator of the racetrack grounds or to any person designated by the owner or operator of the racetrack grounds to operate premises located within the racetrack grounds. Class “B” and “Class B” permits issued by DOR for racetrack grounds authorize the retail sale of beer and intoxicating liquor at the location within the racetrack grounds specified in the permit, for possession and consumption anywhere within the racetrack grounds. Class “B” and “Class B” permits do not authorize the sale of beer and intoxicating liquor for consumption away from the racetrack grounds and do not authorize the sale of beer and intoxicating liquor at any designated camping area on racetrack grounds while the area is in use for camping. The bill contains an exception allowing underage persons to be present on those locations at racetrack grounds for which Class “B” or “Class B” permits are issued.

**Retail sales by caterers off licensed premises**

Current law generally requires a retail licensee to make retail sales of alcohol beverages only in a face-to-face transaction on the retail licensed premises, although the retail licensee may thereafter deliver and serve the alcohol beverages at another location. An exception allows a caterer to make retail sales off its licensed premises during a special event held at the National Railroad Museum in Green Bay or at the Heritage Hill State Park, if no retail license has been issued for this museum or park. A “caterer” is defined as a person who holds a restaurant license and who is in the business of preparing food and transporting it for consumption at gatherings, meetings, or events if the sale of food at each gathering, meeting, or event
accounts for greater than 50 percent of the gross receipts of all of the food and beverages served at the gathering, meeting, or event.

This bill allows a caterer to make retail sales of alcohol beverages off its licensed premises on racetrack grounds, except at a designated camping area while the area is in use for camping and except on premises for which DOR has issued a retail permit for the racetrack grounds.

**Retail license exception for state fair park**

The bill creates a licensing exception under which a person who meets certain qualifications and is approved by the State Fair Park Board may, without a retail license or permit, make retail sales of alcohol beverages at the state fair park for consumption at the state fair park. The same approval is required for a brewer or brewpub that makes retail sales at the state fair park.

**Closing hours for certain retailers**

Under current law, a Class “B” license authorizes the retail sale of beer for consumption on or off the premises. Except when issued to a winery, a “Class B” license authorizes the retail sale of intoxicating liquor for consumption on the licensed premises and, subject to restrictions, the retail sale of intoxicating liquor in original packages for consumption off the licensed premises. Class “B” and “Class B” licenses are often issued together for restaurants and taverns. A “Class C” license, which may be issued only for a restaurant, authorizes the retail sale of wine for consumption on the premises. A retailer operating under a Class “B,” “Class B,” or “Class C” license may not remain open between the hours of 2 a.m. and 6 a.m. on weekdays or between 2:30 a.m. and 6 a.m. on Saturday and Sunday, and a municipality may not impose different closing hours by ordinance. However, there is no closing hour on January 1 for Class “B” and “Class B” licensed retailers. The hours during which a Class “B” or “Class B” licensed retailer may make sales for off-premises consumption are more limited, with these sales prohibited from midnight to 6 a.m., although a municipality may, by ordinance, impose more restrictive hours for these sales.

This bill creates a closing hour exception that may be available for Class “B,” “Class B,” and “Class C” licensees operating in a municipality any part of which is located within Kenosha, Racine, Walworth, Rock, Milwaukee, Waukesha, Jefferson, Dane, Ozaukee, Washington, Dodge, Columbia, Sheboygan, or Fond du Lac County (southeast Wisconsin municipality). Under the bill, from July 13 to July 17, 2020, the closing hour for a Class “B,” “Class B,” or “Class C” licensed premises in a southeast Wisconsin municipality is 4 a.m. if the municipality issuing the license has adopted a resolution allowing extended closing hours and, upon application by a licensee, has authorized the extended closing hour for that licensee. This bill does not affect the hours during which a Class “B” or “Class B” licensee may make sales for off-premises consumption.

**Safe ride program surcharge**

Current law imposes a safe ride program surcharge of $50 upon a person convicted of operating a vehicle while under the influence of an intoxicant, with a detectable amount of a restricted controlled substance in one’s blood, or with a
prohibited alcohol concentration. This bill increases the amount of the safe ride program surcharge to $75.

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

SECTION 1c. 125.06 (14) of the statutes is created to read:

125.06 (14) ALCOHOL BEVERAGE SALES AT STATE FAIR PARK. The retail sale of alcohol beverages at the state fair park, by any person approved by the state fair park board by resolution to make such sales, for consumption at the state fair park. The state fair park board may not grant to a person approval under this subsection unless the person meets the qualifications under s. 125.04 (5) (a) 1., 3., 4., and 5., (b), and (c).

SECTION 1e. 125.07 (3) (a) 17. of the statutes is created to read:

125.07 (3) (a) 17. Premises for which a Class “B” permit is issued under s. 125.27 (5) or a “Class B” permit is issued under s. 125.51 (5) (f).

SECTION 2. 125.12 (5) of the statutes is renumbered 125.12 (5) (a) and amended to read:

125.12 (5) (a) The department may, after notice and an opportunity for hearing, revoke, suspend, or refuse to renew any retail permit issued by it for the causes provided in sub. (4) and any other permit issued by it under this chapter for any violation of this chapter or ch. 139, except that, for a violation of sub. (4) (ag) 6. with respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or 139.035, the department shall revoke the license or permit.

(c) A revocation, suspension, or refusal to renew a permit under par. (a) or (b) is a contested case under ch. 227.

SECTION 3. 125.12 (5) (b) of the statutes is created to read:
125.12 (5) (b) The department may, after notice and an opportunity for hearing, revoke any permit issued under s. 125.27 (5) or 125.51 (5) (f) to a person designated by the owner or operator of racetrack grounds as provided in s. 125.27 (5) (b) or 125.51 (5) (f) 2. if the person’s designation has terminated or the owner or operator of the racetrack grounds has otherwise rescinded the person’s designation.

SECTION 5. 125.26 (2v) of the statutes is created to read:

125.26 (2v) (a) Subject to pars. (b) and (c), and notwithstanding ss. 125.04 (3) (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization specified in sub. (1), a Class “B” license issued under this section to a caterer also authorizes the caterer to provide fermented malt beverages, including their retail sale, on racetrack grounds, as defined in s. 125.27 (5) (a). Subject to pars. (b) and (c), and notwithstanding sub. (1) and s. 125.32 (6) (a), a caterer may provide fermented malt beverages under this paragraph at any location on racetrack grounds even though the racetrack grounds are not part of the caterer’s licensed premises, as described under sub. (3) in the caterer’s Class “B” license, and even if the racetracks grounds are not located within the municipality that issued the caterer’s Class “B” license. A caterer that provides fermented malt beverages under this paragraph is subject to s. 125.32 (2) and (3) as if the fermented malt beverages were provided on the caterer’s Class “B” licensed premises.

(b) A caterer may not provide fermented malt beverages under par. (a) at any designated camping area on racetrack grounds while the area is in use for camping.

(c) A caterer may not provide fermented malt beverages under par. (a) on any premises covered by a permit issued under s. 125.27 (5) or 125.51 (5) (f).

SECTION 7. 125.27 (5) of the statutes is created to read:
125.27 (5) PERMITS FOR RACETRACK GROUNDS. (a) In this subsection, “racetrack
grounds” means real property consisting of at least 300 acres containing a motor
vehicle racetrack at least 4 miles in length capable of hosting professional racing
events, and includes any building or other structure on this property associated with
the racetrack or with services provided in connection with events held at the
racetrack.

(b) The department may issue Class “B” permits for locations within racetrack
grounds to any person that holds a valid certificate issued under s. 73.03 (50), that
is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the
racetrack grounds or is designated by the owner or operator of the racetrack grounds
to operate premises located within the racetrack grounds. Subject to par. (e), the
permit authorizes the retail sale of fermented malt beverages on the premises
covered by the permit, for consumption anywhere within the racetrack grounds. If
the department issues more than one permit under this subsection for the same
racetrack grounds, no part of the premises covered by a permit under this subsection
may overlap with premises covered by any other permit issued under this subsection.

(c) Persons holding a permit under par. (b) may sell beverages containing less
than 0.5 percent of alcohol by volume without obtaining a license under s. 66.0433.

(d) Subject to ss. 125.07 (3) (a) 17. and 125.32 (3) (c) and (3m) (k), all provisions
of this chapter applying to Class “B” licenses apply to Class “B” permits issued under
this subsection, except as follows:

1. A permit issued under this subsection does not authorize retail sales of
fermented malt beverages for consumption off the racetrack grounds.
2. A permit issued under this subsection authorizes the retail sale of fermented malt beverages for possession and consumption off the premises where sold if the possession and consumption occurs within the racetrack grounds.

(e) A permit issued under this subsection does not authorize retail sales of fermented malt beverages at any designated camping area on racetrack grounds while the area is in use for camping.

(f) The department shall establish a fee for a permit issued under this subsection in the amount of 50 percent of the fee for a permit issued under sub. (1).

**SECTION 8g.** 125.29 (3) (j) of the statutes is amended to read:

125.29 (3) (j) The ownership, maintenance, or operation of places for the sale of fermented malt beverages at the state fair park or on any county fairgrounds located in this state. A brewer may not make retail sales of fermented malt beverages at the state fair park unless the state fair park board has, by resolution, approved the brewer to make such sales.

**SECTION 8m.** 125.295 (1) (i) of the statutes is amended to read:

125.295 (1) (i) Notwithstanding s. 125.33 (1), the ownership, maintenance, and operation of places for the sale of fermented malt beverages at the state fair park or on any county fairgrounds located in this state if the fermented malt beverages have been manufactured by the brewpub. A brewpub may not make retail sales of fermented malt beverages at the state fair park unless the state fair park board has, by resolution, approved the brewpub to make such sales.

**SECTION 9.** 125.32 (3) (c) of the statutes is amended to read:

125.32 (3) (c) Hotels and restaurants the principal business of which is the furnishing of food and lodging to patrons, bowling centers, movie theaters, painting studios, indoor golf and baseball facilities, racetrack grounds, as defined in s. 125.27
(5) (a), indoor horseshoe-pitching facilities, curling clubs, golf courses and golf
clubhouses may remain open for the conduct of their regular business but may not
sell fermented malt beverages during the hours specified in par. (a).

SECTION 11. 125.32 (3m) (k) of the statutes is created to read:

125.32 (3m) (k) Premises for which a Class “B” permit is issued under s. 125.27
(5).

SECTION 12. 125.51 (3) (bv) of the statutes is created to read:

125.51 (3) (bv) 1. Subject to subds. 2. and 3., and notwithstanding ss. 125.04
(3) (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization
specified in par. (a) or (b) and in sub. (1) (a), a “Class B” license issued under sub. (1)
to a caterer also authorizes the caterer to provide intoxicating liquor, including its
retail sale, on racetrack grounds, as defined in s. 125.27 (5) (a). Subject to subds. 2.
and 3., and notwithstanding pars. (a) and (b) and sub. (1) (a) and s. 125.32 (6) (a), a
caterer may provide intoxicating liquor under this subdivision at any location on
racetrack grounds even though the racetrack grounds are not part of the caterer’s
licensed premises, as described under par. (d) in the caterer’s “Class B” license, and
even if the racetrack grounds are not located within the municipality that issued the
caterer’s “Class B” license. A caterer that provides intoxicating liquor under this
subdivision is subject to s. 125.68 (2) and (4) as if the intoxicating liquor were
provided on the caterer’s “Class B” licensed premises.

2. A caterer may not provide intoxicating liquor under subd. 1. at any
designated camping area on racetrack grounds while the area is in use for camping.

3. A caterer may not provide intoxicating liquor under subd. 1. on any premises
covered by a permit issued under s. 125.27 (5) or 125.51 (5) (f).

SECTION 18. 125.51 (5) (f) of the statutes is created to read:
125.51 (5) (f) Permits for racetrack grounds. 1. In this paragraph, “racetrack grounds” has the meaning given in s. 125.27 (5) (a).

2. The department may issue “Class B” permits for locations within racetrack grounds to any person that holds a valid certificate issued under s. 73.03 (50), that is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the racetrack grounds or is designated by the owner or operator of the racetrack grounds to operate premises located within the racetrack grounds. Subject to subd. 4., the permit authorizes the retail sale of intoxicating liquor, by the glass and not in the original package or container, on the premises covered by the permit, for consumption anywhere within the racetrack grounds. If the department issues more than one permit under this paragraph for the same racetrack grounds, no part of the premises covered by a permit under this paragraph may overlap with premises covered by any other permit issued under this paragraph.

3. Subject to ss. 125.07 (3) (a) 17. and 125.68 (4) (c) 4., all provisions of this chapter applying to “Class B” licenses apply to “Class B” permits issued under this paragraph, except as follows:

a. A permit issued under this paragraph does not authorize retail sales of intoxicating liquor for consumption off the racetrack grounds.

b. A permit issued under this paragraph authorizes the retail sale of intoxicating liquor for possession and consumption off the premises where sold if the possession and consumption occurs within the racetrack grounds.

4. A permit issued under this paragraph does not authorize retail sales of intoxicating liquor at any designated camping area on racetrack grounds while the area is in use for camping.
5. The department shall establish a fee for a permit issued under this paragraph in the amount of 50 percent of the fee for a permit issued under par. (a).

**SECTION 20.** 125.68 (4) (c) 4. of the statutes is amended to read:

125.68 (4) (c) 4. Hotels and restaurants the principal business of which is the furnishing of food, drinks or lodging to patrons, bowling centers, movie theaters, painting studios, racetrack grounds, as defined in s. 125.27 (5) (a), indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell intoxicating liquor during the closing hours under subd. 1. or, with respect to the sale of intoxicating liquor authorized under s. 125.51 (3r) (a), under subd. 3.

**SECTION 21m.** 346.657 (1) of the statutes is amended to read:

346.657 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose a safe ride program surcharge under ch. 814 in an amount of $50 $75 in addition to the fine or forfeiture, plus costs, fees, and other surcharges imposed under ch. 814.

**SECTION 22. Nonstatutory provisions.**

(1) Closing hours exception for certain alcohol beverage retailers during the Democratic National Convention in Milwaukee.

(a) In this subsection:

2. “Municipality” has the meaning given in s. 125.02 (11).

3. “Southeast Wisconsin municipality” means a municipality any part of which is located within Kenosha, Racine, Walworth, Rock, Milwaukee, Waukesha, Jefferson, Dane, Ozaukee, Washington, Dodge, Columbia, Sheboygan, or Fond du Lac County.
(b) 1. Notwithstanding s. 125.32 (3) (a), from July 13 to July 17, 2020, the closing hours for premises operating under a Class “B” license issued by a southeast Wisconsin municipality shall be between 4 a.m. and 6 a.m. if the municipality that issued the license has adopted a resolution allowing extended closing hours within the municipality and has authorized this extended closing hour as provided in subd. 2.

2. If a southeast Wisconsin municipality has adopted a resolution under subd. 1., the municipality shall establish a process to authorize, and may upon application so authorize, the extended closing hour under subd. 1. for any Class “B” licensed premises within the municipality.

(c) 1. Notwithstanding s. 125.68 (4) (c) 1. and 3m., from July 13 to July 17, 2020, the closing hours for premises operating under a “Class B” or “Class C” license issued by a southeast Wisconsin municipality shall be between 4 a.m. and 6 a.m. if the municipality that issued the license has adopted a resolution allowing extended closing hours within the municipality and has authorized this extended closing hour as provided in subd. 2.

2. If a southeast Wisconsin municipality has adopted a resolution under subd. 1., the municipality shall establish a process to authorize, and may upon application so authorize, the extended closing hour under subd. 1. for any “Class B” or “Class C” licensed premises within the municipality.

SECTION 23. Effective dates. This act takes effect on the first day of the 3rd month beginning publication, except as follows:

(3) The treatment of s. 125.06 (14) and SECTION 22 of this act take effect on the day after publication.