
Wisconsin Legislative Council

ACT MEMO



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2021 Wisconsin Act 43
[2021 Assembly Bill 277]

**Alcohol Retail Permits for
the State Fair Park**

BACKGROUND

Very generally, a retail license or permit authorizes a person to sell alcohol beverages to consumers (someone other than a manufacturer, wholesale distributor, or retailer of alcohol beverages). Retail licenses are issued by municipalities (cities, villages, and towns); retail permits are issued by the Department of Revenue (DOR), in limited circumstances. Retail licenses and permits are issued for a specific geographic area that is described in the retail application, referred to as the “licensed premises,” or “permitted premises.” Separate retail licenses or permits are needed to sell fermented malt beverages (beer) and intoxicating liquor (wine and distilled spirits, “liquor”).

Retailers are subject to numerous requirements that are found throughout ch. 125, Stats. (the Alcohol Beverages Chapter). For example, retailers are subject to requirements relating to the hours of operation and the selling of alcohol to underage or intoxicated persons. Other examples include restrictions that maintain the state’s three-tier system for regulating alcohol, such as the state’s tied-house laws and direct or indirect interest restrictions.

2021 WISCONSIN ACT 43

2021 Wisconsin Act 43 provides that the State Fair Park board may issue a Class “B” beer or “Class B” liquor retail permit to a person authorizing the retail sale of beer or liquor, whichever is applicable, at the State Fair Park. The act prohibits a municipality from issuing an alcohol beverages license anywhere within the State Fair Park. The act defines “State Fair Park” as “the property, buildings and other improvements under the management of the State Fair Park board located in the City of West Allis and the City of Milwaukee bounded by Interstate 94 to the north, S. 76th Street to Pierce Street to S. 77th Street to the east, W. Greenfield Ave. to the south and S. 84th Street to the west.”

Except as otherwise provided in the act, all sections of the Alcohol Beverages Chapter relating to Class “B” licenses apply to Class “B” permits, and in general all sections of the Alcohol Beverages Chapter relating to “Class B” licenses apply to “Class B” permits issued by the State Fair Park board.¹

Eligibility Requirements and Beer and Liquor Retail Permits Issued by the State Fair Park Board

Under the act, the State Fair Park board may issue Class “B” beer retail permits and “Class B” liquor retail permits for locations at the State Fair Park to a person who holds a valid business tax registration

¹ The act specifies that the following provisions applicable to alcohol retail licenses or permits do not apply to retail permits issued by the State Fair Park board: (a) the place of filing a license application; (b) the timing of filing and issuing a license; (c) publication and application of a license; (d) payment of the license fee; (e) transfer of the license or permit; (f) preparation and distribution of an alcohol beverages law booklet; (g) municipal regulation of alcohol beverages; and (h) revocation, suspension, or refusal to reissue a license or permit.

certificate issued by DOR and satisfies all of the eligibility criteria that any applicant must satisfy in order to obtain an alcohol beverages license or permit.² If the applicant is a corporation or limited liability corporation (LLC), then the corporation or LLC must designate an agent that satisfies some of the eligibility requirements, including the 90-day, in-state residency requirement.

Application Form and Timing for Issuing a Notice of the Meeting on the Application

The act authorizes the State Fair Park board to either prepare and use its own retail permit application form for the issuance of Class “B” beer or “Class B” liquor retail permits, or use permit application forms prepared by DOR. When the State Fair Park board meets to consider a retail permit application, the board must issue its open meetings notice at least 15 days prior to the meeting.

Authorized Sales Activity

A Class “B” beer retail permit issued by the State Fair Park board authorizes the retail sale of beer on the premises covered by the permit, for consumption anywhere at the State Fair Park. A person holding a Class “B” beer retail permit issued by the State Fair Park also may sell beverages containing less than 0.5 percent of alcohol by volume (nonintoxicating beverages) without having to obtain a nonintoxicating beverages license issued by a municipality. A Class “B” beer retail permit does not authorize the sale of beer for consumption away from the State Fair Park.

Similarly, a “Class B” liquor retail permit issued by the State Fair Park authorizes the retail sale of liquor, by the glass and not in the original package or container, on the premises covered by the permit, for consumption anywhere at the State Fair Park. The “Class B” liquor retail permit also does not authorize the sale of liquor for consumption away from the State Fair Park unless the permit is issued to a person affiliated with a winery trade association. A “Class B” liquor retail permit that is issued to a person affiliated with a winery trade association also authorizes the permittee to make retail sales, in original packages or containers, for consumption away from the State Fair Park, of wine manufactured by members of the winery trade association. The act specifies that a “Class B” liquor retail permit issued by the State Fair Park board is not subject to a quota.³

Under the act, the premises specified in either the Class “B” beer or “Class B” liquor retail permit issued by the State Fair Park board may be described as multiple locations at the State Fair Park.

Lastly, a person holding a Class “B” beer or a “Class B” liquor retail permit issued by the State Fair Park board is subject to any requirements or conditions imposed upon the person by the State Fair Park board in the permit or under a lease or vendor agreement. This agreement may require the person to remit to the State Fair Park board a percentage of gross sales of alcohol beverages as specified in the agreement.

Expiration Date of Permits Issued by the State Fair Park Board

An alcohol retail license is generally valid for one year and expires on June 30. A license issued by the City of Milwaukee is valid for one year and expires on the date that is specified in the license. A permit

² Eligibility requirements for any alcohol beverages license or permit issued to a natural person, corporation, or limited liability company relate to the applicant’s: (a) criminal background, subject to the Fair Employment Law; (b) in-state residency for at least 90-days prior to the date of application; (c) age of at least 21 years old (except for persons applying for an operator’s license); (d) proof of a seller’s permit issued by DOR; and (e) successful completion of the responsible beverages server training. [s. 125.04 (5) (a), (b), and (c), Stats.]

³ Very generally, there is a quota on the number of “Class B” liquor retail licenses that a municipality may issue. This quota requirement does not apply to “Class B” liquor retail permits issued by DOR. [s. 125.51 (4) and (5), Stats.]

issued by DOR is valid for two years, expiring on the date of the business tax registration certificate. [s. 125.04 (11), Stats.] The act provides that a Class “B” beer or a “Class B” liquor retail permit issued by the State Fair Park board is valid for one year and expires on June 30.

Fees for Permits Issued by the State Fair Park Board

DOR determines the fee for alcohol beverage permits, including Class “B” beer and “Class B” liquor retail permits. For example, the annual fee for a Class “B” beer retail permit issued by DOR to a sports club is \$100; the annual fee for a “Class B” liquor retail permit issued by DOR to a sports club is \$300.

The act requires the State Fair Park board to establish an annual fee for a permit issued under this subsection in the amount of 50 percent of the annual fee for a permit issued a sports club. Permit fees must be credited to the appropriation for the State Fair Park.

State Fair Park Board Enforcement Authority

State law sets forth the State Fair Park board’s authority. Examples of its authority include the following:

- Managing the State Fair Park and supervising or conducting fairs, exhibits, or promotional events for agricultural, industrial, educational, and recreational purposes at the State Fair Park.
- Leasing or licensing the use of any property at the State Fair Park for other purposes when not needed for the purposes listed above.
- Charging reasonable rents and fees for use of or attendance at the premises.
- Exercising police supervision over the State Fair Park. Duly appointed agents or representatives may arrest, with or without warrant, any person within such park area, committing an offense against the laws of the state or the rules of the State Fair Park board.

[s. 42.01 (1) and (2), Stats.]

The act provides that the enforcement powers that the State Fair Park board has under current law also apply with respect to a person to whom the board issues a Class “B” beer or a “Class B” liquor retail permit.

Exception to the Tied-House Law

The state’s tied-house law is one of the restrictions that maintains the state’s three-tier regulatory system of alcohol beverages. In Wisconsin, a “tied-house” generally refers to a bar, pub, tavern, or restaurant that is licensed to sell beer and is owned or controlled by a beer manufacturer (brewer or brewpub). Under the state’s tied-house law, a brewer, brewpub, or beer wholesaler is prohibited from furnishing, giving, lending, leasing, or selling anything of value to a Class “B” beer retailer.⁴ There are numerous exceptions to this, however, such as giving to a Class “B” beer retailer signs, clocks, and menu boards with an aggregate value of not more than \$2,500 for placement inside of the retail premises. [s. 125.33 (1) (a), and (2), Stats.]

The act provides an exception to Class “B” beer retail permittees that are authorized to sell beer at the State Fair Park. Specifically, the act provides that it is not a violation the Alcohol Beverages Chapter for a brewer, brewpub, out-of-state beer shipper, or beer wholesaler to make a sponsorship payment or provide any other item of value to a vendor that has been issued a Class “B” beer retail permit by the

⁴ Tied-houses are also regulated under federal law. Federal tied-house laws apply to both beer and liquor manufacturers and wholesalers. [27 U.S.C. s. 205 (b).]

State Fair Park board. If the vendor also holds a retail Class “B” license, the sponsorship exception is strictly applied only to the State Fair Park location.

In addition to this tied-house exception, the act creates a similar provision related to liquor. The act provides that it is not a violation of the Alcohol Beverages Chapter for a liquor manufacturer, rectifier, out-of-state liquor shipper, or liquor wholesaler to make a sponsorship payment or provide any other item of value to a vendor that has been issued a “Class B” liquor retail permit by the State Fair Park board. If the vendor also holds a retail “Class B” license, this subsection is strictly applied only to the State Fair Park location.

Procedure for Renewal, Suspension, Revocation, or Refusal to Renew Permits Issued by the State Fair Park Board

The act requires the State Fair Park board to establish standards and procedures for the renewal of a Class “B” beer or a “Class B” liquor retail permit that is consistent with the provisions that set forth the eligibility requirements, application forms, and open meetings notice on the permit application.

The act also requires the State Fair Park board to establish standards and procedures for suspension, revocation, or refusal to renew a permit issued under this subsection. Under the act, a suspension, revocation, or refusal to renew a permit by the State Fair Park board is subject to administrative review as a contested case, as provided under current law.

Brewer and Brewpub Retail Sales at the State Fair Park

Prior law authorized brewers and brewpubs to own, maintain, and operate places for the sale of beer at the State Fair Park, but did not specify whether the brewer or brewpub must be approved by the State Fair Park board to do so. Under the act, a person holding a brewer’s or brewpub permit is prohibited from making retail sales of beer at the State Fair Park unless the State Fair Park board has approved the brewer or brewpub to make such sales.

Effective date: May 23, 2021

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