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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2021 Assembly Bill 250**

**Assembly  
Amendment 2 to Assembly  
Substitute Amendment 2**

### 2021 ASSEMBLY BILL 250

2021 Assembly Bill 250 makes several changes to the enforcement and administration of laws by the Department of Revenue (DOR). Very generally, the bill does the following:

- Prohibits the creation, design, manufacture, sale, purchase, lease, installation, update, repair, service, transfer, use, and possession of phantomware or an automated sales suppression device, as defined by the bill, unless for a legitimate purpose, and provides DOR with the ability to revoke all permits, licenses, and certificates issued by the department for up to 10 years for violating.
- Authorizes employees of DOR and the Department of Justice (DOJ) to disclose tax return information under certain circumstances.
- Requires DOR to annually publish on its website a list of alcohol beverage retail licensees issued by municipal clerks.
- Requires an applicant to pay fees incurred by DOR for the purpose of verifying a permit applicant's eligibility for an alcohol beverages permit.
- Specifically prohibits the use, possession, and sale of alcohol vapor devices.
- Prohibits the possession of a still, leach tub, or other apparatus for manufacturing, rectifying, distilling, refining, or purifying intoxicating liquor other than wine, unless the person has a manufacturer or rectifier's permit, has a registered distilled spirits plant, or has registered the still or distilling apparatus.
- Specifies that if DOR refuses to issue, refuses to renew, or revokes a person's alcohol beverages permit, the person may not reapply for six months, rather than 12 months.
- Creates certain requirements relating to licenses to sell cigarettes and tobacco products and prohibits a municipal clerk from issuing a license unless the person: (1) has not been habitually a law offender or been convicted of a felony; (2) has submitted proof of a seller's permit; and (3) is at least 18 years old.
- Creates graduated penalties for a person who evades taxes on cigarette, tobacco product, and vapor products.
- Increases penalties for the unlawful possession of cigarettes.
- Prohibits certain activities relating to lottery tickets, such as counterfeiting or illegally obtaining a lottery ticket and possessing a counterfeit or illegally obtained lottery ticket with intent to defraud.
- Allows DOR employees to purchase a lottery ticket or share if the purchase is made on behalf of DOR as part of an official investigation.

- Includes in the definition of “racketeering” the attempt, conspiracy to commit, or commission of the felony offenses created under the bill relating to evading excise taxes and unlawful possession of cigarettes.
- Allows DOR excise tax agents the ability to issue citations for violations of ch. 125, Stats., creates a fee schedule for violations, and creates an administrative process for challenging citations.

## ASSEMBLY SUBSTITUTE AMENDMENT 2

Assembly Substitute Amendment 2 retains many provisions of the bill but differs from the bill in the following ways. The substitute amendment:

- Removes the provisions relating to the ability of DOR agents to issue citations for violations of ch. 125, Stats., and the prohibition on the possession of a still, leach tub, or other apparatus for manufacturing, distilling, refining, or purifying intoxicating liquor.
- Specifies that if DOR refuses to issue, refuses to renew, or revokes a person’s alcohol beverages permit, the person who held or applied for the permit may not reapply for six months, rather than 12 months.
- Prohibits a municipal clerk from issuing a person a license to sell cigarettes or tobacco products unless the person is at least 21 years old, rather than 18 years old.
- Specifies that any disclosure of tax return information by a DOR or DOJ employee must be strictly limited to, and used solely for the purposes of, obtaining certain necessary information.
- Modifies the penalties for unlawful possession of fewer than 3,000 cigarettes provided under the bill.
- Defines “electronic vaping device” and subjects the devices to the same general retail licensing requirements as cigarettes and tobacco products.
- Amends the definition of “protective occupation participant” for purposes of obtaining duty and disability benefits. The amendment includes a special agent employed by DOR who is authorized to act under s. 73.031, Stats., and removes a reference in current law to an excise tax investigator.
- Expands the arrest powers of DOR special agents who are certified as law enforcement officers.
- Amends the definition of “fermented malt beverage” to include any beverage recognized under federal regulations as beer, except sake or similar products.
- Requires a person who applies for a license or permit to sell alcohol beverages to file a written description of any change in fact within 30 days. Current law requires such a filing within 10 days.
- Prohibits a person from claiming a lottery prize from a winning ticket or share and then transferring the same winning lottery ticket or share to another person with intent to avoid certain withholdings.

## ASSEMBLY AMENDMENT 2 TO ASSEMBLY SUBSTITUTE AMENDMENT 2

Assembly Amendment 2 to Assembly Substitute Amendment 2 specifies that the definition of “fermented malt beverage” includes any **fermented** beverage recognized under federal regulations as beer, except for sake or similar products.

The amendment also modifies the waiting period if DOR refuses to issue, refuses to renew, or revokes a person’s alcohol beverages permit. Under the amendment, if DOR **revokes** a person’s alcohol

beverages permit, the person who held the permit may not reapply for the permit for six months. The waiting period does not apply if DOR refuses to issue or renew a permit.

## **BILL HISTORY**

Representative Spiros offered Assembly Substitute Amendment 2 on January 25, 2022. On January 26, 2022, the Assembly Committee on State Affairs recommended adoption of Assembly Substitute Amendment 2 and passage of Assembly Bill 250, as amended, on votes of Ayes, 13; Noes, 0.

Representative Spiros offered Assembly Amendment 2 to Assembly Substitute Amendment 2 on February 10, 2022. On February 23, 2022, the Assembly adopted Assembly Amendment 2 to Assembly Substitute Amendment 2 and Assembly Substitute Amendment 2, as amended, on voice votes. The Assembly then passed the bill, as amended, by voice vote.

TK:jal