



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-3462/1
ARG:cdc

2021 ASSEMBLY BILL 1035

February 17, 2022 - Introduced by Representatives KNODL, GUNDRUM, MOSES and TAUCHEN, cosponsored by Senators STROEBEL, NASS and ROYS. Referred to Committee on State Affairs.

1 **AN ACT** *to renumber and amend* 125.545 (4); *to amend* 125.545 (7) (a), 125.58
2 (1), 125.69 (3) and 125.69 (6) (a); and *to create* 125.02 (15r), 125.52 (1) (b) 3.,
3 125.53 (3), 125.545 (4) (b) and 125.58 (5) of the statutes; **relating to:**
4 distribution of intoxicating liquor to retailers by manufacturers, rectifiers,
5 wineries, and out-of-state shippers.

Analysis by the Legislative Reference Bureau

This bill allows certain wineries, manufacturers and rectifiers of intoxicating liquor, and out-of-state liquor shippers to self-distribute their products to retailers.

Under current law, alcohol beverages are generally distributed to consumers under a three-tier distribution system: the producer sells to a wholesaler; the wholesaler sells to a retailer; and the retailer sells to a consumer. With limited exceptions, a retail licensee may not purchase alcohol beverages from, or possess alcohol beverages purchased from, any person other than a wholesaler.

Also under current law, the Department of Revenue issues permits to producers of alcohol beverages. A manufacturer's permit or rectifier's permit issued by DOR authorizes the permittee to, respectively, manufacture or rectify intoxicating liquor and sell it to wholesalers. Intoxicating liquor includes distilled spirits and wine. A winery permit issued by DOR authorizes the winery to manufacture wine for sale to wholesalers. A winery may also hold a retail license authorizing the sale of wine and the winery may provide wine made by the winery directly to its own retail licensed premises without the wine first passing through a wholesaler. An out-of-state

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liquor shipper's permit issued by DOR allows a manufacturer or rectifier of intoxicating liquor located outside this state, or its exclusive agent, to ship intoxicating liquor into this state to a wholesaler or to a manufacturer, rectifier, or winery.

This bill allows a winery, manufacturer, rectifier, and out-of-state shipper to distribute intoxicating liquor directly to retailers as follows:

1. A winery in this state that manufactures not more than 30,000 gallons of wine per year may distribute directly to retailers up to 24,000 gallons of its own wine.

2. A manufacturer or rectifier in this state that manufactures or rectifies not more than 10,000 proof gallons of intoxicating liquor per year may distribute directly to retailers up to 8,000 proof gallons of its own intoxicating liquor. A proof gallon is a unit of measure for distilled spirits equal to one gallon containing 50 percent alcohol by volume.

3. An out-of-state shipper that is a winery located outside of this state and that manufactures not more than 30,000 gallons of wine per year may ship into this state directly to retailers up to 24,000 gallons of its own wine.

4. An out-of-state shipper that is a manufacturer or rectifier located outside of this state and that manufactures or rectifies not more than 10,000 proof gallons of intoxicating liquor per year may ship into this state directly to retailers up to 8,000 proof gallons of its own intoxicating liquor.

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

1 **SECTION 1.** 125.02 (15r) of the statutes is created to read:

2 125.02 (15r) "Proof gallon" has the meaning given in 26 USC 5002 (a) (11).

3 **SECTION 2.** 125.52 (1) (b) 3. of the statutes is created to read:

4 125.52 (1) (b) 3. In addition to the authorization under subds. 1. and 2. and par.

5 (a), a manufacturer or rectifier holding a permit under this section that

6 manufactures or rectifies not more than 10,000 proof gallons of intoxicating liquor

7 in a calendar year from all locations may, in a calendar year, sell and distribute

8 directly to retailers from the manufacturer's or rectifier's premises, in original

9 unopened packages or containers, not more than 8,000 proof gallons of intoxicating

10 liquor manufactured or rectified on the manufacturer's or rectifier's premises.

11 Intoxicating liquor sold or provided as taste samples under subd. 2. shall not be

ASSEMBLY BILL 1035**SECTION 2**

1 included in any calculation of the 8,000-proof gallon limitation under this
2 subdivision.

3 **SECTION 3.** 125.53 (3) of the statutes is created to read:

4 125.53 (3) In addition to the authorization under sub. (1), a winery holding a
5 permit under this section that manufactures not more than 30,000 gallons of wine
6 in a calendar year from all locations may, in a calendar year, sell and distribute
7 directly to retailers, in original unopened packages or containers, not more than
8 24,000 gallons of wine manufactured on the winery premises. Wine provided by the
9 winery to its own "Class A" or "Class B" retail premises shall not be included in any
10 calculation of the 24,000-gallon limitation under this subsection.

11 **SECTION 4.** 125.545 (4) of the statutes is renumbered 125.545 (4) (a) and
12 amended to read:

13 125.545 (4) (a) ~~A~~ Except as provided in par. (b), a member of a cooperative
14 wholesaler may make its wine available for purchase by a retailer or another
15 wholesaler only through the cooperative wholesaler of which it is a member. ~~A~~
16 Except as provided in par. (b), a member of a cooperative wholesaler may not sell its
17 wine directly to any other wholesaler or directly to a retailer.

18 **SECTION 5.** 125.545 (4) (b) of the statutes is created to read:

19 125.545 (4) (b) A member of a cooperative wholesaler may sell and distribute
20 its wine directly to retailers as provided in s. 125.53 (3).

21 **SECTION 6.** 125.545 (7) (a) of the statutes is amended to read:

22 125.545 (7) (a) ~~Any~~ Except as provided in sub. (4) (b), any winery that sells or
23 distributes its wine directly to a retailer, rather than through a wholesaler or
24 cooperative wholesaler, is subject to a fine of not more than \$10,000 and revocation
25 of all of its permits by the department under s. 125.12 (5).

ASSEMBLY BILL 1035**SECTION 7**

1 **SECTION 7.** 125.58 (1) of the statutes is amended to read:

2 125.58 (1) The department shall issue out-of-state shippers' permits which
3 authorize persons located outside this state to sell or ship intoxicating liquor into this
4 state. Except as provided under ~~sub.~~ subs. (4) and (5), intoxicating liquor may be
5 shipped into this state only to a person holding a wholesaler's permit under s. 125.54
6 or, if shipped from a manufacturer or rectifier in another state holding a permit
7 under this section, to a person holding a manufacturer's or rectifier's permit under
8 s. 125.52 or a winery permit under s. 125.53. Except as provided under sub. (4), a
9 separate out-of-state shipper's permit is required for each location from which any
10 intoxicating liquor is sold or shipped into this state, including the location from
11 which the invoices are issued for the sales or shipments. Any person holding an
12 out-of-state shipper's permit issued under this section may solicit orders for sales
13 or shipments by the permittee without obtaining the sales solicitation permit
14 required by s. 125.65, but every agent, salesperson or other representative who
15 solicits orders for sales or shipments by an out-of-state shipper shall first obtain a
16 permit for soliciting orders under s. 125.65. No holder of an out-of-state shipper's
17 permit issued under this section may sell intoxicating liquor in this state or ship
18 intoxicating liquor into this state unless the out-of-state shipper is the primary
19 source of supply for that intoxicating liquor.

20 **SECTION 8.** 125.58 (5) of the statutes is created to read:

21 125.58 (5) (a) A winery located outside of this state that holds a permit under
22 this section and manufactures not more than 30,000 gallons of wine in a calendar
23 year from all locations may, in a calendar year, sell and ship into this state directly
24 to retailers not more than 24,000 gallons of wine manufactured by the winery.

ASSEMBLY BILL 1035**SECTION 8**

1 (b) A manufacturer or rectifier located outside of this state that holds a permit
2 under this section and manufactures or rectifies not more than 10,000 proof gallons
3 of intoxicating liquor in a calendar year from all locations may, in a calendar year,
4 sell and ship into this state directly to retailers not more than 8,000 proof gallons of
5 intoxicating liquor manufactured or rectified by the manufacturer or rectifier.

6 **SECTION 9.** 125.69 (3) of the statutes is amended to read:

7 125.69 (3) VOLUME DISCOUNTS TO CAMPUSES AND RETAILERS. A wholesaler of
8 intoxicating liquor, a winery with respect to sales of wine authorized under s. 125.53
9 (3), a manufacturer or rectifier with respect to sales of intoxicating liquor authorized
10 under s. 125.52 (1) (b) 3., and an out-of-state shipper with respect to sales of
11 intoxicating liquor authorized under s. 125.58 (5), shall charge the same price to all
12 campuses and retail licensees and permittees making purchases in similar
13 quantities. Any discount offered on intoxicating liquor shall be delivered to the
14 retailer in a single transaction and single delivery, and on a single invoice.

15 **SECTION 10.** 125.69 (6) (a) of the statutes is amended to read:

16 125.69 (6) (a) No Except as provided in ss. 125.52 (1) (b) 3., 125.53 (3), and
17 125.58 (5), no campus or retail licensee or permittee may purchase intoxicating
18 liquor from, or possess intoxicating liquor purchased from, any person other than a
19 wholesaler holding a permit under this chapter for the sale of intoxicating liquor.

20 (END)