



2023 ASSEMBLY BILL 127

March 24, 2023 - Introduced by Representatives DUCHOW, MYERS, J. ANDERSON, BARE, BEHNKE, CLANCY, HONG, JOERS, KITCHENS, MACCO, MADISON, RODRIGUEZ, SCHMIDT, SPIROS, STUBBS, ZIMMERMAN and HAYWOOD, cosponsored by Senators STROEBEL, ROYS, BALLWEG, BRADLEY, FEYEN and NASS. Referred to Committee on State Affairs.

1 **AN ACT** *to renumber and amend* 125.25 (3), 125.26 (3), 125.272, 125.51 (2) (c),
2 125.51 (3) (d) and 125.51 (6); *to amend* 125.02 (20), 125.26 (2u), 125.26 (2v) (a),
3 125.26 (2w), 125.26 (2x), 125.51 (3) (bu), 125.51 (3) (bv) 1., 125.51 (3) (bw),
4 125.51 (3) (bx) and 139.25 (9); and *to create* 125.02 (20k), 125.07 (1) (b) 7.,
5 125.07 (2) (c), 125.10 (6), 125.20, 125.272 (2) and (3), 125.51 (6) (b) and (c) and
6 139.11 (1m) of the statutes; **relating to:** the face-to-face requirement for retail
7 sales of alcohol beverages and remote orders for the sale of alcohol beverages
8 to be delivered or picked up on retail licensed premises.

Analysis by the Legislative Reference Bureau

This bill allows most alcohol beverage retailers to make online or telephone sales of alcohol beverages to be picked up by the customer at parking spaces that are part of the retail licensed premises or to be delivered by the retailer or a delivery service. The bill also prohibits municipalities from imposing by ordinance additional restrictions on these sales for pickup and creates an alcohol delivery permit issued by the Department of Revenue.

Current law

Under current law, with limited exceptions, no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing

ASSEMBLY BILL 127

the sale. A Class “B” license authorizes the retail sale of fermented malt beverages (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, which includes wine and distilled spirits, for consumption on the licensed premises and, subject to certain restrictions, the retail sale of intoxicating liquor for consumption off the licensed premises. Class “A” and “Class A” licenses authorize the retail sale of, respectively, beer and intoxicating liquor in original packages for consumption off the licensed premises. Each of these retail licenses is issued by a municipality.

Also under current law, a retail license authorizes only face-to-face sales of alcohol beverages to consumers at the licensed premises. After the sale is made on the licensed premises, if the alcohol beverages are sold for off-premises consumption, the retailer may deliver the alcohol beverages to a location designated by the consumer. The sale to the consumer on the licensed premises is governed by certain requirements, including that the purchaser be of legal drinking age, that the sale be made only during certain hours, and that the licensed premises be supervised by a person holding an operator’s (bartender’s) license. The licensed premises on which the sale occurs must be particularly described in the retail license issued by the municipality, and each applicant for a retail license must identify in the application the premises where alcohol beverages will be sold.

Delivery

This bill allows a Class “A,” “Class A,” Class “B,” or “Class B” licensed retailer to process and fill an online or telephone order for the sale and delivery of alcohol beverages (remote delivery order) if all of the following apply: 1) the products ordered are delivered to the customer by the retailer, by a delivery service under common ownership with the retailer, or by a delivery service that is independent of the retailer and derives less than 50 percent of its annual revenues associated with food and beverage delivery from the delivery of alcohol beverages (third-party delivery service); 2) the retailer, delivery service under common ownership with the retailer, or third-party delivery service making delivery holds an alcohol delivery permit issued by DOR (discussed further below); 3) the products delivered are sold in original, unopened packages or containers, except that a “Class B” licensed retailer may deliver or have delivered intoxicating liquor sold in tamper-evident, licensee-sealed containers (commonly known as cocktails-to-go); 4) full payment for the order is made at the time the order is placed, although a delivery tip is permitted; 5) at the time the order is placed, the customer asserts that the customer is at least 21 years of age and not intoxicated; 6) delivery is completed during hours in which the retailer is allowed to make sales for off-premises consumption; and 7) at the time of delivery and prior to transferring possession of the alcohol beverages to the customer, the individual making delivery examines the customer’s identification, verifies visually and by using electronic scanning technology that the customer is at least 21 years of age, and creates a record of this age verification. Age verification records must be retained by the retailer that sold the alcohol beverages for three years. An individual may not deliver alcohol beverages to a customer unless the individual is at least 21 years of age and has successfully completed a responsible beverage server training course or comparable course. Alcohol beverages may not

ASSEMBLY BILL 127

be delivered to a person who is less than 21 years of age or visibly intoxicated. If alcohol beverages are delivered by a third-party delivery service or a delivery service under common ownership with the retailer to an underage person, the delivery service is liable for the violation, and the retailer is not liable if the customer asserted when placing the order that he or she is at least age 21 and not intoxicated.

The bill also prohibits a retailer from 1) entering into an agreement with a producer or wholesaler restricting availability of, or giving availability preferences for, alcohol beverage products offered for sale and delivery by means of remote delivery orders; and 2) charging different prices for these products in comparison with the prices of the same products sold in a face-to-face transaction on the licensed premises, although a retailer may charge an additional fee for delivery.

The bill creates an alcohol delivery permit issued by DOR to retailers, delivery services under common ownership with retailers, and third-party delivery services. The permit authorizes the permittee to deliver alcohol beverages in connection with remote delivery orders. A permit is valid for one year and has an annual fee of \$150 for a retailer and \$300 for a third-party delivery service or delivery service under common ownership with a retailer.

Pickup

This bill provides that, if a Class “A,” “Class A,” Class “B,” or “Class B” licensed retailer receives a remote pickup order for alcohol beverages that the customer will pick up at a parking space that is part of the retailer’s licensed premises, the sale of alcohol beverages occurs at the time the customer takes possession of the alcohol beverages at the parking space, regardless of when the customer makes payment. The bill defines “remote pickup order” as an order for the sale of alcohol beverages in original unopened packages or containers, to be picked up at the retailer’s premises, that is placed by telephone or Internet by a customer who asserts at the time of placing the order that he or she is at least 21 years of age. A Class “B” or “Class B” licensee may sell alcohol beverages by remote pickup order only for consumption off the licensed premises, and the customer may take possession of the alcohol beverages only during hours in which the licensee is allowed to make sales for off-premises consumption. The bill also specifies that licensed premises identified in the retail license may include parking spaces associated with a structure described as licensed premises, even if the parking spaces are not contiguous with the remainder of the licensed premises. The bill also prohibits municipalities from adopting ordinances that impose additional restrictions on alcohol beverage sales made by these retailers pursuant to remote pickup orders.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 125.02 (20) of the statutes is amended to read:

ASSEMBLY BILL 127**SECTION 1**

1 125.02 (20) “Sell”, Subject to ss. 125.272 (2) (h) 1. and (3) (b) and (c) and 125.51
2 (6) (b) 8. a. and (c) 2. and 3., “sell,” “sold”, “sale,” or “selling” means any transfer of
3 alcohol beverages with consideration or any transfer without consideration if
4 knowingly made for purposes of evading the law relating to the sale of alcohol
5 beverages or any shift, device, scheme or transaction for obtaining alcohol beverages,
6 including the solicitation of orders for, or the sale for future delivery of, alcohol
7 beverages.

8 **SECTION 2.** 125.02 (20k) of the statutes is created to read:

9 125.02 (20k) “Third-party delivery service” means a delivery service that is
10 independent of a retail licensee and that derives less than 50 percent of its annual
11 revenues associated with food and beverage delivery from the delivery of alcohol
12 beverages.

13 **SECTION 3.** 125.07 (1) (b) 7. of the statutes is created to read:

14 125.07 (1) (b) 7. If a licensee processes and fills a remote delivery order under
15 s. 125.272 (2) or 125.51 (6) (b) in reliance on the customer’s assertion that the
16 customer has attained the legal drinking age and delivery is made by a 3rd-party
17 delivery service or a delivery service under common ownership with the licensee, the
18 licensee is not subject to any penalty under this paragraph and the only penalty
19 applicable if the alcohol beverages are delivered to an underage person is that
20 specified for the 3rd-party delivery service or delivery service under common
21 ownership with the licensee under ss. 125.272 (2) (i) 1. and 125.51 (6) (b) 9. a.

22 **SECTION 4.** 125.07 (2) (c) of the statutes is created to read:

23 125.07 (2) (c) *Exception for certain delivered alcohol beverages.* If a licensee
24 processes and fills a remote delivery order under s. 125.272 (2) or 125.51 (6) (b) in
25 reliance on the customer’s assertion that the customer is not intoxicated, the licensee

ASSEMBLY BILL 127

1 is not subject to any penalty under par. (b) unless the licensee delivers the alcohol
2 beverages and violates s. 125.272 (2) (d) or 125.51 (6) (b) 4. at the time of delivery.

3 **SECTION 5.** 125.10 (6) of the statutes is created to read:

4 125.10 (6) REMOTE PICKUP ORDERS OF ALCOHOL BEVERAGES. (a) Notwithstanding
5 sub. (1), and subject to par. (b), a municipality may not prescribe additional
6 regulations for, or impose additional restrictions relating to, sales of alcohol
7 beverages made pursuant to remote pickup order, as defined in s. 125.272 (3) (a), by
8 Class “A”, “Class A”, Class “B”, or “Class B” licensees. An ordinance that is
9 inconsistent with this paragraph may not be enforced.

10 (b) Paragraph (a) does not limit a municipality’s authority to adopt ordinances
11 of general application that apply to all sales by a retail licensee, including ordinances
12 adopted under ss. 125.32 (3) (d) and 125.68 (4) (b) and (c) 3.

13 **SECTION 6.** 125.20 of the statutes is created to read:

14 **125.20 Alcohol delivery permits. (1)** The department shall issue alcohol
15 delivery permits to retail licensees, delivery services under common ownership with
16 retail licensees, and 3rd-party delivery services that authorize the permittee to
17 deliver alcohol beverages in connection with remote delivery orders under ss.
18 125.272 (2) and 125.51 (6) (b).

19 (2) An alcohol delivery permit may be issued only to a person who holds a valid
20 certificate issued under s. 73.03 (50). For purposes of s. 125.04 (6) (a) 2., the
21 appointment of an agent for a permittee under this section shall vest authority in the
22 agent with respect to all delivery operations, not limited to activities occurring on the
23 premises covered by the permit.

24 (3) A permit issued under this section shall be valid for one year. The annual
25 fee for initial issuance or renewal of the permit shall be \$150 for an applicant that

ASSEMBLY BILL 127**SECTION 6**

1 is a retail licensee and \$300 for an applicant that is a 3rd-party delivery service or
2 a delivery service under common ownership with a retail licensee. The fee shall be
3 paid at the time of application for initial issuance or renewal of the permit and shall
4 be refunded to the applicant if the application is denied.

5 **SECTION 7.** 125.25 (3) of the statutes is renumbered 125.25 (3) (a) and amended
6 to read:

7 125.25 (3) (a) Class “A” licenses shall particularly describe the premises for
8 which issued ~~and~~. The premises for a Class “A” license may include, if described in
9 the license application as provided in s. 125.04 (3) (a) 3., parking spaces associated
10 with any structure described as licensed premises in the license application, even if
11 the parking spaces are not contiguous with the remainder of the Class “A” licensed
12 premises.

13 (b) Class “A” licenses are not transferable, except under s. 125.04 (12).

14 (c) A Class “A” license is subject to revocation for violation of any of the terms
15 or provisions thereof.

16 **SECTION 8.** 125.26 (2u) of the statutes is amended to read:

17 125.26 (2u) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
18 addition to the authorization specified in sub. (1), a Class “B” license issued under
19 this section to a caterer also authorizes the caterer to provide fermented malt
20 beverages, including their retail sale, at the National Railroad Museum in Green
21 Bay during special events held at this museum. Notwithstanding sub. (1), a caterer
22 may provide fermented malt beverages under this subsection at any location at the
23 National Railroad Museum even though the National Railroad Museum is not part
24 of the caterer’s licensed premises, as described under sub. (3) (a) in the caterer’s
25 Class “B” license, and even if the National Railroad Museum is not located within the

ASSEMBLY BILL 127

1 municipality that issued the caterer's Class "B" license. A caterer that provides
2 fermented malt beverages under this subsection is subject to s. 125.32 (2) as if the
3 fermented malt beverages were provided on the caterer's Class "B" licensed
4 premises. This subsection does not authorize the National Railroad Museum to sell
5 fermented malt beverages at retail or to procure or stock fermented malt beverages
6 for purposes of retail sale. This subsection does not apply if, at any time, the National
7 Railroad Museum holds a Class "B" license.

8 **SECTION 9.** 125.26 (2v) (a) of the statutes is amended to read:

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

22 **SECTION 10.** 125.26 (2w) of the statutes is amended to read:

23 125.26 (2w) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
24 addition to the authorization specified in sub. (1), a Class "B" license issued under
25 this section to a caterer also authorizes the caterer to provide fermented malt

ASSEMBLY BILL 127**SECTION 10**

1 beverages, including their retail sale, at the Heritage Hill state park during special
2 events held at this park. Notwithstanding sub. (1), a caterer may provide fermented
3 malt beverages under this subsection at any location at the Heritage Hill state park
4 even though the Heritage Hill state park is not part of the caterer's licensed
5 premises, as described under sub. (3) (a) in the caterer's Class "B" license, and even
6 if the Heritage Hill state park is not located within the municipality that issued the
7 caterer's Class "B" license. A caterer that provides fermented malt beverages under
8 this subsection is subject to s. 125.32 (2) as if the fermented malt beverages were
9 provided on the caterer's Class "B" licensed premises. This subsection does not
10 authorize the Heritage Hill state park to sell fermented malt beverages at retail or
11 to procure or stock fermented malt beverages for purposes of retail sale. This
12 subsection does not apply if, at any time, the Heritage Hill state park holds a Class
13 "B" license.

14 **SECTION 11.** 125.26 (2x) of the statutes is amended to read:

15 125.26 (2x) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
16 addition to the authorization specified in sub. (1), a Class "B" license issued under
17 this section also authorizes the licensee to provide fermented malt beverages,
18 including their retail sale, at specific locations within the Ozaukee County
19 fairgrounds for consumption at these locations during special events held at the
20 fairgrounds, if the Ozaukee County board adopts a resolution approving the licensee
21 and if the licensee's Class "B" licensed premises are located in Ozaukee County.
22 Notwithstanding sub. (1), a licensee may provide fermented malt beverages under
23 this subsection at the Ozaukee County fairgrounds even though the Ozaukee County
24 fairgrounds are not part of the licensee's licensed premises, as described under sub.
25 (3) (a) in the licensee's Class "B" license, and even if the Ozaukee County fairgrounds

ASSEMBLY BILL 127

1 are not located within the municipality that issued the Class “B” license. A licensee
2 that provides fermented malt beverages under this subsection is subject to s. 125.32
3 (2) as if the fermented malt beverages were provided on the licensee’s Class “B”
4 licensed premises. Notwithstanding s. 125.34 (4) and (5), a wholesaler may deliver
5 fermented malt beverages to the Ozaukee County fairgrounds to a licensee approved
6 by the Ozaukee County board under this subsection and such an approved licensee
7 may transport fermented malt beverages from its licensed premises to the Ozaukee
8 County fairgrounds for purposes of selling the fermented malt beverages at the
9 Ozaukee County fairgrounds. This subsection does not authorize Ozaukee County
10 or any person operating or managing the Ozaukee County fairgrounds to sell
11 fermented malt beverages at retail or to procure or stock fermented malt beverages
12 for purposes of retail sale.

13 **SECTION 12.** 125.26 (3) of the statutes is renumbered 125.26 (3) (a) and
14 amended to read:

15 125.26 (3) (a) Class “B” licenses shall particularly describe the premises for
16 which issued and. The premises for a Class “B” license may include, if described in
17 the license application as provided in s. 125.04 (3) (a) 3., parking spaces associated
18 with any structure described as licensed premises in the license application, even if
19 the parking spaces are not contiguous with the remainder of the Class “B” licensed
20 premises.

21 (b) Class “B” licenses are not transferable, except as provided in s. 125.04 (12).

22 (c) A Class “B” license is subject to revocation for violation of any of the terms
23 or provisions thereof.

24 **SECTION 13.** 125.272 of the statutes is renumbered 125.272 (1) and amended
25 to read:

ASSEMBLY BILL 127**SECTION 13**

1 125.272 (1) Except as provided in subs. (2) and (3) and ss. 125.26 (2m), (2s), and
2 (2x) and 125.27 (4) and except with respect to caterers, a retail license issued under
3 s. 125.25 or 125.26, and a retail permit issued under s. 125.27, authorizes only
4 face-to-face sales to consumers at the premises described in the retail license or
5 permit.

6 **SECTION 14.** 125.272 (2) and (3) of the statutes are created to read:

7 125.272 (2) (a) In this subsection:

8 1. “Record” has the meaning given in s. 137.11 (12).

9 2. “Remote delivery order” means an order for the sale and delivery of both food
10 and alcohol beverages or alcohol beverages alone that is received by a retail licensee
11 by means of the Internet, telephone, or any other method of communication under
12 which the customer is not physically located on the licensed premises.

13 (b) A retail licensee may process and fill a remote delivery order if all of the
14 following apply:

15 1. The licensee holds a retail license issued under s. 125.25 or 125.26, and the
16 fermented malt beverages are sold in original, unopened packages or containers.

17 2. The products ordered are delivered to the customer by the licensee, by a
18 delivery service under common ownership with the licensee, or by a 3rd-party
19 delivery service and the licensee, delivery service under common ownership with the
20 licensee, or 3rd-party delivery service holds a permit issued under s. 125.20.

21 3. Full payment for the order is made at the time the order is placed and no
22 payment, other than a tip, is made at the time of delivery.

23 4. At the time the order is placed, the customer asserts that the customer has
24 attained the legal drinking age and is not intoxicated.

ASSEMBLY BILL 127

1 5. At the time the products ordered are delivered, the individual delivering the
2 order complies with pars. (c), (d), (e), and (f).

3 (c) An individual may not deliver alcohol beverages to a customer under this
4 subsection unless the individual making the delivery does all of the following at the
5 time of delivery:

6 1. Prior to transferring possession of the alcohol beverages to the customer,
7 confirms the customer receiving delivery is the person who placed the order.

8 2. Prior to transferring possession of the alcohol beverages to the customer,
9 performs an in-person examination of the customer's identification document
10 containing proof of age and verifies by visual examination and by using electronic
11 scanning technology that the customer receiving delivery of the order has attained
12 the legal drinking age.

13 3. Creates a record of the age verification under subd. 2.

14 (d) An individual may not deliver alcohol beverages under this subsection to
15 a person who is visibly intoxicated.

16 (e) An individual may not deliver alcohol beverages to a customer under this
17 subsection unless all of the following apply:

18 1. The individual has attained the legal drinking age.

19 2. The individual has successfully completed a responsible beverage server
20 training course or comparable training course as described in s. 125.04 (5) (a) 5.

21 (f) An individual may not deliver fermented malt beverages to a customer
22 under this subsection unless the individual completes the delivery during the
23 following hours:

24 1. If the fermented malt beverages were sold by a Class "A" licensee, during
25 hours in which the Class "A" licensee is authorized to sell fermented malt beverages

ASSEMBLY BILL 127**SECTION 14**

1 under s. 125.32 (3) (b) or, if more restrictive, during hours established by ordinance
2 by a municipality under s. 125.32 (3) (d).

3 2. If the fermented malt beverages were sold by a Class “B” licensee, during
4 hours in which the Class “B” licensee is authorized to sell fermented malt beverages
5 under s. 125.32 (3) (am) or, if more restrictive, during hours established by ordinance
6 by a municipality under s. 125.32 (3) (d).

7 (g) A 3rd-party delivery service or delivery service under common ownership
8 with a licensee shall provide to the retail licensee on whose behalf the delivery is
9 made an original or duplicate of each age verification record required under par. (c)
10 3.

11 (h) 1. If a licensee processes and fills a remote delivery order under this
12 subsection, the sale of fermented malt beverages occurs at the time the customer
13 pays for the fermented malt beverages, regardless of when the customer takes
14 possession of the fermented malt beverages.

15 2. Notwithstanding s. 125.33 (9), if a 3rd-party delivery service or delivery
16 service under common ownership with a licensee is unable to complete delivery of
17 fermented malt beverages to a customer under this subsection, the 3rd-party
18 delivery service or delivery service under common ownership with a licensee shall
19 return the fermented malt beverages to the licensee from which the fermented malt
20 beverages delivery originated and the licensee shall cancel the sale of the fermented
21 malt beverages and may credit the customer’s account. Notwithstanding s. 125.33
22 (9), if a licensee is unable to complete delivery of fermented malt beverages to a
23 customer under this subsection, the licensee shall cancel the sale of the fermented
24 malt beverages and may credit the customer’s account.

ASSEMBLY BILL 127

1 (i) 1. Delivery of alcohol beverages under this subsection to an underage person
2 shall be considered a violation of s. 125.07 (1) (a) 1. if delivery is made by a 3rd-party
3 delivery service or delivery service under common ownership with a licensee or s.
4 125.07 (1) (a) 2. if delivery is made by a licensee, as well as a violation for purposes
5 of s. 125.07 (1) (b) 1., subject to the same defenses that apply or would apply to a
6 licensee under s. 125.07 (6).

7 2. Delivery of alcohol beverages under this subsection to a visibly intoxicated
8 person shall be considered a violation of s. 125.07 (2) (a) 1. if delivery is made by a
9 3rd-party delivery service or delivery service under common ownership with a
10 licensee or s. 125.07 (2) (a) 2. if delivery is made by a licensee.

11 (j) A person who receives delivery of alcohol beverages under this subsection
12 may not resell the alcohol beverages.

13 (k) Alcohol beverages may not be delivered under this subsection to the licensed
14 premises of a Class "A," "Class A," Class "B," "Class B," or "Class C" licensee.

15 (L) Nothing in this subsection limits the discretion of a retail licensee, delivery
16 service under common ownership with a retail licensee, or 3rd-party delivery service
17 to decline in whole or in part to make retail sales by means of remote delivery order,
18 to reject individual remote delivery orders, or to limit, geographically or otherwise,
19 the locations to which remote delivery orders are delivered.

20 (m) A retail licensee that processes and fills remote delivery orders may not do
21 any of the following with respect to fermented malt beverages offered for sale and
22 delivery under this subsection:

23 1. Enter into any agreement with a brewer, brewpub, or wholesaler that
24 restricts, or gives preference with respect to, the availability of any fermented malt

ASSEMBLY BILL 127**SECTION 14**

1 beverage brand on the basis that the fermented malt beverages will be offered for
2 sale and delivery under this subsection.

3 2. Charge different prices for fermented malt beverages offered for sale and
4 delivery under this subsection in comparison with the prices charged for the same
5 products sold in a face-to-face transaction under sub. (1). This subdivision does not
6 prohibit the retail licensee from charging an additional fee for delivery.

7 (3) (a) In this subsection, “remote pickup order” means an order for the sale of
8 alcohol beverages in original unopened packages or containers, to be picked up at the
9 retailer’s premises, that is placed by telephone or Internet by a customer who asserts
10 at the time of placing the order that he or she has attained the legal drinking age.

11 (b) If a Class “A” licensee receives a remote pickup order for fermented malt
12 beverages that the customer will pick up at a parking space that is part of the Class
13 “A” licensed premises, the sale of fermented malt beverages occurs at the time the
14 customer takes possession of the fermented malt beverages at the parking space that
15 is part of the Class “A” licensed premises, regardless of when the customer makes
16 payment for the fermented malt beverages.

17 (c) If a Class “B” licensee receives a remote pickup order for fermented malt
18 beverages that the customer will pick up at a parking space that is part of the Class
19 “B” licensed premises, the sale of fermented malt beverages occurs at the time the
20 customer takes possession of the fermented malt beverages at the parking space that
21 is part of the Class “B” licensed premises, regardless of when the customer makes
22 payment for the fermented malt beverages. Notwithstanding s. 125.26 (1), a Class
23 “B” licensee’s sale of fermented malt beverages made by remote pickup order under
24 this paragraph is authorized only for consumption off the licensed premises.

ASSEMBLY BILL 127

1 (d) If a Class “A” licensee makes a sale of fermented malt beverages by remote
2 pickup order under this subsection, the customer may not take possession of the
3 fermented malt beverages during hours in which the Class “A” licensee is prohibited
4 from selling fermented malt beverages under s. 125.32 (3) (b) or, if more restrictive,
5 during hours established by ordinance by a municipality under s. 125.32 (3) (d). If
6 a Class “B” licensee makes a sale of fermented malt beverages by remote pickup order
7 under this subsection, the customer may not take possession of the fermented malt
8 beverages during hours in which the Class “B” licensee is prohibited from selling
9 fermented malt beverages under s. 125.32 (3) (am) or, if more restrictive, during
10 hours established by ordinance by a municipality under s. 125.32 (3) (d).

11 **SECTION 15.** 125.51 (2) (c) of the statutes is renumbered 125.51 (2) (c) 1. and
12 amended to read:

13 125.51 (2) (c) 1. “Class A” licenses shall particularly describe the premises for
14 which issued and. The premises for a “Class A” license may include, if described in
15 the license application as provided in s. 125.04 (3) (a) 3., parking spaces associated
16 with any structure described as licensed premises in the license application, even if
17 the parking spaces are not contiguous with the remainder of the “Class A” licensed
18 premises.

19 2. “Class A” licenses are not transferable, except as provided in s. 125.04 (12).

20 **SECTION 16.** 125.51 (3) (bu) of the statutes is amended to read:

21 125.51 (3) (bu) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
22 addition to the authorization specified in sub. (1) (a) and in sub. (3) (a) or (b), a “Class
23 B” license issued under sub. (1) to a caterer also authorizes the caterer to provide
24 intoxicating liquor, including its retail sale, at the National Railroad Museum in
25 Green Bay during special events held at this museum. Notwithstanding subs. (1) (a)

ASSEMBLY BILL 127**SECTION 16**

1 and (3) (a) and (b), a caterer may provide intoxicating liquor under this paragraph
2 at any location at the National Railroad Museum even though the National Railroad
3 Museum is not part of the caterer's licensed premises, as described under par. (d) 1.
4 in the caterer's "Class B" license, and even if the National Railroad Museum is not
5 located within the municipality that issued the caterer's "Class B" license. A caterer
6 that provides intoxicating liquor under this paragraph is subject to s. 125.68 (2) as
7 if the intoxicating liquor were provided on the caterer's "Class B" licensed premises.
8 This paragraph does not authorize the National Railroad Museum to sell
9 intoxicating liquor at retail or to procure or stock intoxicating liquor for purposes of
10 retail sale. This paragraph does not apply if, at any time, the National Railroad
11 Museum holds a "Class B" license.

12 **SECTION 17.** 125.51 (3) (bv) 1. of the statutes is amended to read:

13 125.51 (3) (bv) 1. Subject to subds. 2. and 3., and notwithstanding ss. 125.04
14 (3) (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization
15 specified in par. (a) or (b) and in sub. (1) (a), a "Class B" license issued under sub. (1)
16 to a caterer also authorizes the caterer to provide intoxicating liquor, including its
17 retail sale, on racetrack grounds, as defined in s. 125.27 (5) (a). Subject to subds. 2.
18 and 3., and notwithstanding pars. (a) and (b) and sub. (1) (a) and s. 125.32 (6) (a), a
19 caterer may provide intoxicating liquor under this subdivision at any location on
20 racetrack grounds even though the racetrack grounds are not part of the caterer's
21 licensed premises, as described under par. (d) 1. in the caterer's "Class B" license, and
22 even if the racetrack grounds are not located within the municipality that issued the
23 caterer's "Class B" license. A caterer that provides intoxicating liquor under this
24 subdivision is subject to s. 125.68 (2) and (4) as if the intoxicating liquor were
25 provided on the caterer's "Class B" licensed premises.

ASSEMBLY BILL 127

1 **SECTION 18.** 125.51 (3) (bw) of the statutes is amended to read:

2 125.51 (3) (bw) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
3 addition to the authorization specified in par. (a) or (b) and in sub. (1) (a), a “Class
4 B” license issued under sub. (1) to a caterer also authorizes the caterer to provide
5 intoxicating liquor, including its retail sale, at the Heritage Hill state park during
6 special events held at this park. Notwithstanding pars. (a) and (b) and sub. (1) (a),
7 a caterer may provide intoxicating liquor under this paragraph at any location at the
8 Heritage Hill state park even though the Heritage Hill state park is not part of the
9 caterer’s licensed premises, as described under par. (d) 1. in the caterer’s “Class B”
10 license, and even if the Heritage Hill state park is not located within the municipality
11 that issued the caterer’s “Class B” license. A caterer that provides intoxicating liquor
12 under this paragraph is subject to s. 125.68 (2) as if the intoxicating liquor were
13 provided on the caterer’s “Class B” licensed premises. This paragraph does not
14 authorize the Heritage Hill state park to sell intoxicating liquor at retail or to procure
15 or stock intoxicating liquor for purposes of retail sale. This paragraph does not apply
16 if, at any time, the Heritage Hill state park holds a “Class B” license.

17 **SECTION 19.** 125.51 (3) (bx) of the statutes is amended to read:

18 125.51 (3) (bx) Notwithstanding ss. 125.04 (3) (a) 3. and (9) and 125.09 (1), in
19 addition to the authorization specified in par. (a) or (b) and in sub. (1) (a), a “Class
20 B” license issued under sub. (1) also authorizes the licensee to provide intoxicating
21 liquor, including its retail sale, at specific locations within the Ozaukee County
22 fairgrounds for consumption at these locations during special events held at the
23 fairgrounds, if the Ozaukee County board adopts a resolution approving the licensee
24 and if the licensee’s “Class B” licensed premises are located in Ozaukee County.
25 Notwithstanding pars. (a) and (b) and sub. (1) (a), a licensee may provide intoxicating

ASSEMBLY BILL 127**SECTION 19**

1 liquor under this paragraph at the Ozaukee County fairgrounds even though the
2 Ozaukee County fairgrounds are not part of the licensee's licensed premises, as
3 described under par. (d) 1 in the licensee's "Class B" license, and even if the Ozaukee
4 County fairgrounds are not located within the municipality that issued the licensee's
5 "Class B" license. A licensee that provides intoxicating liquor under this paragraph
6 is subject to s. 125.68 (2) as if the intoxicating liquor were provided on the licensee's
7 "Class B" licensed premises. This paragraph does not authorize Ozaukee County or
8 any person operating or managing the Ozaukee County fairgrounds to sell
9 intoxicating liquor at retail or to procure or stock intoxicating liquor for purposes of
10 retail sale.

11 **SECTION 20.** 125.51 (3) (d) of the statutes is renumbered 125.51 (3) (d) 1. and
12 amended to read:

13 125.51 (3) (d) 1. "Class B" licenses shall particularly describe the premises for
14 which issued ~~and~~. The premises for a "Class B" license may include, if described in
15 the license application as provided in s. 125.04 (3) (a) 3., parking spaces associated
16 with any structure described as licensed premises in the license application, even if
17 the parking spaces are not contiguous with the remainder of the "Class B" licensed
18 premises.

19 2. "Class B" licenses are not transferable, except as provided in s. 125.04 (12).

20 **SECTION 21.** 125.51 (6) of the statutes is renumbered 125.51 (6) (a) and
21 amended to read:

22 125.51 (6) (a) Except as provided in pars. (b) and (c) and subs. (3) (bm), (bs), and
23 (bx) and (5) (e) and except with respect to caterers, a retail license or permit issued
24 under this section authorizes only face-to-face sales to consumers at the premises
25 described in the retail license or permit.

ASSEMBLY BILL 127

- 1 **SECTION 22.** 125.51 (6) (b) and (c) of the statutes are created to read:
- 2 125.51 **(6)** (b) 1. In this paragraph:
- 3 a. “Record” has the meaning given in s. 137.11 (12).
- 4 b. “Remote delivery order” has the meaning given in s. 125.272 (2) (a) 2.
- 5 2. A retail licensee may process and fill a remote delivery order if all of the
- 6 following apply:
- 7 a. The licensee holds a retail license issued under sub. (2) or (3), and the
- 8 intoxicating liquor is sold in original, unopened packages or containers or, if sold by
- 9 a licensee under sub. (3), in containers sealed, before removal from the licensed
- 10 premises, with a tamper-evident seal.
- 11 b. The products ordered are delivered to the customer by the licensee, by a
- 12 delivery service under common ownership with the licensee, or by a 3rd-party
- 13 delivery service and the licensee, delivery service under common ownership with the
- 14 licensee, or 3rd-party delivery service holds a permit issued under s. 125.20.
- 15 c. Full payment for the order is made at the time the order is placed and no
- 16 payment, other than a tip, is made at the time of delivery.
- 17 d. At the time the order is placed, the customer asserts that the customer has
- 18 attained the legal drinking age and is not intoxicated.
- 19 e. At the time the products ordered are delivered, the individual delivering the
- 20 order complies with subs. 3., 4., 5., and 6.
- 21 3. An individual may not deliver alcohol beverages to a customer under this
- 22 paragraph unless the individual making the delivery does all of the following at the
- 23 time of delivery:
- 24 a. Prior to transferring possession of the alcohol beverages to the customer,
- 25 confirms the customer receiving delivery is the person who placed the order.

ASSEMBLY BILL 127**SECTION 22**

1 b. Prior to transferring possession of the alcohol beverages to the customer,
2 performs an in-person examination of the customer's identification document
3 containing proof of age and verifies by visual examination and by using electronic
4 scanning technology that the customer receiving delivery of the order has attained
5 the legal drinking age.

6 c. Creates a record of the age verification under subd. 3. b.

7 4. An individual may not deliver alcohol beverages under this paragraph to a
8 person who is visibly intoxicated.

9 5. An individual may not deliver alcohol beverages to a customer under this
10 paragraph unless all of the following apply:

11 a. The individual has attained the legal drinking age.

12 b. The individual has successfully completed a responsible beverage server
13 training course or comparable training course as described in s. 125.04 (5) (a) 5.

14 6. An individual may not deliver intoxicating liquor to a customer under this
15 paragraph unless the individual completes the delivery during the following hours:

16 a. If the intoxicating liquor was sold by a "Class A" licensee, during hours in
17 which the "Class A" licensee is authorized to sell intoxicating liquor under s. 125.68
18 (4) (b) or, if more restrictive, during hours established by ordinance by a municipality
19 under s. 125.68 (4) (b).

20 b. If the intoxicating liquor was sold by a "Class B" licensee, during hours in
21 which the "Class B" licensee is authorized to sell intoxicating liquor under s. 125.68
22 (4) (c) 3. or, if more restrictive, during hours established by ordinance by a
23 municipality under s. 125.68 (4) (c) 3., or, if applicable, during hours in which the
24 "Class B" licensee is authorized to sell intoxicating liquor under s. 125.68 (4) (c) 3m.

ASSEMBLY BILL 127

1 7. A 3rd-party delivery service or delivery service under common ownership
2 with a licensee shall provide to the retail licensee on whose behalf the delivery is
3 made an original or duplicate of each age verification record required under subd. 3.
4 c.

5 8. a. If a licensee processes and fills a remote delivery order under this
6 paragraph, the sale of intoxicating liquor occurs at the time the customer pays for
7 the intoxicating liquor, regardless of when the customer takes possession of the
8 intoxicating liquor.

9 b. Notwithstanding s. 125.69 (6), if a 3rd-party delivery service or delivery
10 service under common ownership with a licensee is unable to complete delivery of
11 intoxicating liquor to a customer under this paragraph, the 3rd-party delivery
12 service or delivery service under common ownership with a licensee shall return the
13 intoxicating liquor to the licensee from which the intoxicating liquor delivery
14 originated and the licensee shall cancel the sale of the intoxicating liquor and may
15 credit the customer's account. Notwithstanding s. 125.69 (6), if a licensee is unable
16 to complete delivery of intoxicating liquor to a customer under this paragraph, the
17 licensee shall cancel the sale of the intoxicating liquor and may credit the customer's
18 account.

19 9. a. Delivery of alcohol beverages under this paragraph to an underage person
20 shall be considered a violation of s. 125.07 (1) (a) 1. if delivery is made by a 3rd-party
21 delivery service or delivery service under common ownership with a licensee or s.
22 125.07 (1) (a) 2. if delivery is made by a licensee, as well as a violation for purposes
23 of s. 125.07 (1) (b) 1., subject to the same defenses that apply or would apply to a
24 licensee under s. 125.07 (6).

ASSEMBLY BILL 127**SECTION 22**

1 b. Delivery of alcohol beverages under this paragraph to a visibly intoxicated
2 person shall be considered a violation of s. 125.07 (2) (a) 1. if delivery is made by a
3 3rd-party delivery service or delivery service under common ownership with a
4 licensee or s. 125.07 (2) (a) 2. if delivery is made by a licensee.

5 10. A person who receives delivery of alcohol beverages under this paragraph
6 may not resell the alcohol beverages.

7 11. Alcohol beverages may not be delivered under this paragraph to the
8 licensed premises of a Class “A,” “Class A,” Class “B,” “Class B,” or “Class C” licensee.

9 12. Nothing in this paragraph limits the discretion of a retail licensee, delivery
10 service under common ownership with a retail licensee, or 3rd-party delivery service
11 to decline in whole or in part to make retail sales by means of remote delivery order,
12 to reject individual remote delivery orders, or to limit, geographically or otherwise,
13 the locations to which remote delivery orders are delivered.

14 13. A retail licensee that processes and fills remote delivery orders may not do
15 any of the following with respect to intoxicating liquor offered for sale and delivery
16 under this paragraph:

17 a. Enter into any agreement with a manufacturer, rectifier, winery, or
18 wholesaler that restricts, or gives preference with respect to, the availability of any
19 intoxicating liquor brand on the basis that the intoxicating liquor will be offered for
20 sale and delivery under this paragraph.

21 b. Charge different prices for intoxicating liquor offered for sale and delivery
22 under this paragraph in comparison with the prices charged for the same products
23 sold in a face-to-face transaction under par. (a). This subd. 13. b. does not prohibit
24 the retail licensee from charging an additional fee for delivery.

ASSEMBLY BILL 127

1 (c) 1. In this paragraph, “remote pickup order” has the meaning given in s.
2 125.272 (3) (a).

3 2. If a “Class A” licensee receives a remote pickup order for intoxicating liquor
4 that the customer will pick up at a parking space that is part of the “Class A” licensed
5 premises, the sale of intoxicating liquor occurs at the time the customer takes
6 possession of the intoxicating liquor at the parking space that is part of the “Class
7 A” licensed premises, regardless of when the customer makes payment for the
8 intoxicating liquor.

9 3. If a “Class B” licensee receives a remote pickup order for intoxicating liquor
10 that the customer will pick up at a parking space that is part of the “Class B” licensed
11 premises, the sale of intoxicating liquor occurs at the time the customer takes
12 possession of the intoxicating liquor at the parking space that is part of the “Class
13 B” licensed premises, regardless of when the customer makes payment for the
14 intoxicating liquor. Notwithstanding sub. (3) (a) to (b), a “Class B” licensee’s sale of
15 intoxicating liquor made by remote pickup order under this subdivision is authorized
16 only for consumption off the licensed premises. This subdivision does not affect any
17 restriction under sub. (3) (a) to (b) on a “Class B” licensee’s authorization to sell
18 intoxicating liquor for consumption off the licensed premises.

19 4. If a “Class A” licensee makes a sale of intoxicating liquor by remote pickup
20 order under this paragraph, the customer may not take possession of the intoxicating
21 liquor during hours in which the “Class A” licensee is prohibited from selling
22 intoxicating liquor under s. 125.68 (4) (b) or, if more restrictive, during hours
23 established by ordinance by a municipality under s. 125.68 (4) (b). If a “Class B”
24 licensee makes a sale of intoxicating liquor by remote pickup order under this
25 paragraph, the customer may not take possession of the intoxicating liquor during

ASSEMBLY BILL 127**SECTION 22**

1 hours in which the “Class B” licensee is prohibited from selling intoxicating liquor
2 under s. 125.68 (4) (c) 3. or, if more restrictive, during hours established by ordinance
3 by a municipality under s. 125.32 (4) (c) 3., or, if applicable, during hours in which
4 the “Class B” licensee is prohibited from selling intoxicating liquor under s. 125.68
5 (4) (c) 3m.

6 **SECTION 23.** 139.11 (1m) of the statutes is created to read:

7 139.11 (1m) AGE VERIFICATION RECORDS FOR DELIVERED ALCOHOL BEVERAGES. (a)
8 If a retail licensee processes and fills a remote delivery order under s. 125.272 (2) or
9 125.51 (6) (b), the records required under sub. (1) shall include all of the following:

10 1. All age verification records created by the licensee as required under ss.
11 125.272 (2) (c) 3. and 125.51 (6) (b) 3. c.

12 2. All age verification records provided to the licensee by a 3rd-party delivery
13 service or delivery service under common ownership with the licensee under ss.
14 125.272 (2) (g) and 125.51 (6) (b) 7.

15 (b) A licensee shall retain the records required under par. (a) for 3 years from
16 the date the alcohol beverages are delivered.

17 **SECTION 24.** 139.25 (9) of the statutes is amended to read:

18 139.25 (9) FAILURE TO KEEP RECORDS. Failure to comply with s. 139.11 (1) or (1m)
19 shall carry a penalty of revocation by the secretary of revenue of the license or permit.

20 **SECTION 25. Effective date.**

21 (1) This act takes effect on the first day of the 4th month beginning after
22 publication.

23 (END)