

CR 89-188

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Revisor of Statutes
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CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule, relating to fermented malt beverages was duly approved and adopted by this department on August 3, 1990.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 31st day of July, 1990.



Mark D. Bugher
Secretary of Revenue

MDB:VLG:lc
CKLEG/M022070E

10-1-90

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PROPOSED ORDER OF THE DEPARTMENT OF REVENUE
REPEALING, RENUMBERING, AMENDING AND CREATING RULES

To repeal Tax 7.23(2)(b)1, 2, 4 and 5 and (3)(b), (d) and (e); to renumber Tax 7.23(2)(b)3; to renumber and amend Tax 7.23(2)(b)6 and (3)(c); to amend Tax 7.01(title)(1), (2) and (3) and 7.23(1)(a), (b) and (c), (2)(a) and (b)(intro.) and (3)(intro.); to repeal and recreate Tax 7.01(4) and 7.23(3)(a); and create Tax 7.01(5) and (6) relating to fermented malt beverages.

Analysis by the Department of Revenue

Statutory authority: ss. 125.03 and 139.08(2), Stats.

Statutes interpreted: ss. 125.30, 125.33(1) and (9) and 139.11(1), Stats.

SECTION 1. Tax 7.01(title) is amended to correct the statutory reference since s. 139.05(5), Stats., was repealed by Laws of 1981, Chapter 79. Similar provisions are found in s. 125.30, Stats. Tax 7.01(1), (2) and (3) are amended for the following reasons:

a. Bottlers do not issue invoices; the term "bottler" is no longer used in the statutes and is obsolete.

b. Information on what an invoice should contain is provided in sub. (5) (See Section 3).

c. Revisions are made to remove obsolete language and to conform to proper rule format.

SECTION 2. Tax 7.01(4) is repealed and recreated to eliminate excess verbiage and update format and style to reflect current practices.

SECTION 3. Tax 7.01(5) and (6) are created to clarify requirements as to what information must appear on an invoice and how to handle transfers of fermented malt beverage stock.

SECTION 4 and 10. Tax 7.23(1)(a), (b) and (c), (2)(a) and (3)(intro.) are amended to update rule format and style, remove excess verbiage and include information regarding permits, permittees and campuses not previously addressed though provided for in s. 125.33, Stats.

SECTION 5. Tax 7.23(2)(b)(intro.) is amended to remove the word "bottler" which is an obsolete term.

SECTIONS 6, 7, 8, 12 and 14. Certain provisions in Tax 7.23(2)(b) and (3) are repealed and Tax 7.23(2)(b)3 is renumbered because many of the items are either a duplication of the law or are no longer provided by law.

SECTION 9 and 13. Tax 7.23(2)(b)6 and (3)(c) are renumbered and amended as a result of repealing other paragraphs and subparagraphs and to improve format. Subsection (3)(b) as renumbered is amended to provide that the limitation for providing music does not only apply to dances.

SECTION 11. Tax 7.23(3)(a) is repealed and recreated to eliminate excess verbiage and to clarify that a brewer or wholesaler may not have a Class "B" licensee, corporate officer or partner who is part of an association, team or other organization it sponsors.

SECTION 1. Tax 7.01(title)(1), (2) and (3) are amended to read:

Tax 7.01(title) PURCHASES AND INVOICES. (ss. 125.30, 125.33(9) and 139.11(1), Stats.) (1) Wisconsin wholesalers ~~and-bottlers~~ properly registered and licensed may purchase and receive fermented malt beverages only from registered Wisconsin breweries and wholesalers or from out-of-state firms holding a fermented malt beverage permit. Wisconsin breweries, ~~bottlers~~ and wholesalers will upon request be furnished with a list of out-of-state firms having a permit to ship into Wisconsin.

(2) An invoice ~~must~~ shall be submitted covering each sale, shipment or delivery to a Wisconsin wholesaler ~~or-bottler~~ by all breweries, ~~bottlers~~ and permittees shipping within the state or into this state. ~~Such~~ The invoice ~~must~~ clearly-indicate-date, quantities, package-size-and-description-and-must shall be retained on the licensed premises of the wholesaler ~~or-bottler~~.

(3) An invoice ~~indicating-date, quantity, package-size-and-description-must~~ shall be submitted to the retailer by the brewery, ~~bottler~~ or wholesaler, covering each sale, shipment or delivery of fermented malt beverages made to ~~such-a~~ the retailer. Breweries, ~~bottlers~~ and wholesalers ~~must~~ shall keep a copy or a record of ~~such~~ the invoices on their licensed premises ~~in-convenient-form,~~ indicating-the-date-of-payment-if-paid. ~~Such~~ The invoices or record ~~must~~ shall be available for inspection at all reasonable hours by representatives of the department of revenue.

SECTION 2. Tax 7.01(4) is repealed and recreated to read:

Tax 7.01(4) Retailers shall retain on their premises invoices covering all purchases of fermented malt beverages. These invoices shall be retained for 2 years from the date of invoice in groups covering a period of one month each and be available for inspection at all reasonable times by representatives of the department of revenue. The date of payment shall be recorded on the invoice.

SECTION 3. Tax 7.01(5) and (6) are created to read:

Tax 7.01(5) An invoice shall contain the following information:

- (a) Names and business addresses of both parties as shown on the permit or license of each party.
- (b) Date of sale.
- (c) Quantity and package size of fermented malt beverages by type and brand.
- (d) Unit price per package.
- (e) Discount.
- (f) Signature of the person receiving the fermented malt beverages.
- (g) Date of payment.

(6)(a) No licensed retailer may transfer his or her sealed fermented malt beverage stock upon selling or liquidating the business without first completing a written inventory listing the entire stock to be transferred. The inventory shall list the names and addresses of the seller and buyer, quantities, brands and container sizes for the stock being transferred and shall be signed by both the buyer and the seller. A copy of the inventory listing shall be retained on the licensed premises for 2 years from the date of transfer and shall be made available for inspection at all reasonable times by representatives of the department of revenue.

(b) A licensed retailer may sell his or her entire sealed fermented malt beverage stock in a liquidating transaction to any other licensed retailer provided the conditions in par. (a) are met.

SECTION 4. Tax 7.23(1)(a), (b) and (c) and (2)(a) are amended to read:

Tax 7.23(1)(a) "Event" means any activity, game, contest, tournament or entertainment ~~(including activities of bowling leagues, bowling tournaments, snowmobile and automobile races, baseball, basketball, football and soccer games, dances, concerts and any other attraction)~~ which is conducted on that

part of a campus premises where the sale of fermented malt beverages takes place or premises operated under a retail Class "B" fermented malt beverage license or permit or promoted by a campus operation for the sale of fermented malt beverages or retail Class "B" fermented malt beverage licensee or permittee.

(b) "Retail Class 'B' fermented malt beverage license" means all retailers' Class "B" licenses, including a temporary license issued under s. 125.26(6), Stats., ~~for a fair, meeting, picnic or similar gathering.~~

(c) "Sign" means a ~~board, banner, placard, poster or other~~ graphic display, containing letters, words, symbols, numerals, shapes, forms or pictures ~~or any combination thereof~~, including all component parts ~~(such as the frame, nuts and bolts, ballast, internal wiring, electrical and mechanical components and face,~~ and labor necessary to assemble the unit), which has no value or use except to advertise or identify a ~~manufacturer's~~ product or a ~~retailer's~~ place of business or an event or any combination of these. The value of the sign is determined by the original cost of acquisition if it is purchased by a ~~brewer, bottler~~ or wholesaler.

(2)(a) Restriction. No ~~brewer, bottler~~ or wholesaler of fermented malt beverages may sponsor any event conducted on that part of a campus premises where the sale of fermented malt beverages takes place or premises operated under a retail Class "B" fermented malt beverage license or permit or promoted by a campus operation for the sale of fermented malt beverages or retail Class "B" fermented malt beverage licensee or permittee.

SECTION 5. Tax 7.23(2)(b)(intro.) is amended to read:

Tax 7.23(2)(b)(intro.) Exceptions. However, a ~~brewer, bottler~~ or wholesaler may:

SECTION 6. Tax 7.23(2)(b)1 and 2 are repealed.

SECTION 7. Tax 7.23(2)(b)3 is renumbered Tax 7.23(2)(b)1.

SECTION 8. Tax 7.23(2)(b)4 and 5 are repealed.

SECTION 9. Tax 7.23(2)(b)6 is renumbered Tax 7.23(2)(b)2 and amended to read:

Tax 7.23(2)(b)2 Enter into ~~contractual-agreements~~ contracts or other arrangements directly with non-licensed third ~~party-organizations~~ parties to sponsor an event or sponsor radio or television broadcasts, to make payment for advertising, or to provide other services or things of value if ~~no~~ all 3 of the following conditions are met:

a. No payments, services or other things of value are made directly or indirectly by the brewer, ~~bottler~~ or wholesaler to a Class "B" licensee ~~or Association-of-Class-"B"-licensees, if the.~~

b. The payments, services or other things of value are not contingent upon the event being held at any premises designated by the brewer, ~~bottler~~ or wholesaler ~~and-if-the.~~

c. The sponsor's products are not required to be sold or served at the premises selected by the non-licensed third party.

SECTION 10. Tax 7.23(3)(intro.) is amended to read:

Tax 7.23(3)(intro.) Subject to the limitations in sub. (2)(a) and (b), examples of conduct prohibited by s. 125.33(1), Stats., and this ~~rule~~ section include, but are not limited to.

SECTION 11. Tax 7.23(3)(a) is repealed and recreated to read:

Tax 7.23(3)(a) A brewer or wholesaler may not sponsor an association, team or other organization for a campus or Class "B" licensee or permittee or have a Class "B" licensee, corporate officer or partner who is part of an association, team or other organization it sponsors.

SECTION 12. Tax 7.23(3)(b) is repealed.

SECTION 13. Tax 7.23(3)(c) is renumbered 7.23(3)(b) and amended to read:

Tax 7.23(3)(b) A brewer, ~~bottler~~ or wholesaler may not hire ~~musicians~~
persons to provide a concert or music ~~for-a-dance~~ at a Class "B" licensed premises.

SECTION 14. Tax 7.23(3)(d) and (e) are repealed.

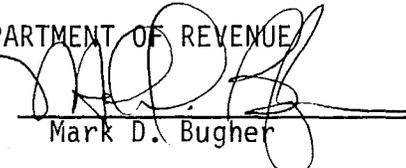
The rules contained in this Order shall take effect on the first day of the first month following publication as provided in s. 227.22(2)(intro.), Stats.

Initial Regulatory Flexibility Analysis

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Dated: June 8, 1990

DEPARTMENT OF REVENUE

By: 

Mark D. Bugher

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LRB or Bill No./Adm. Rule No.
Tax Rules 7.01 and 7.23
Amendment No. if Applicable

FISCAL ESTIMATE

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

DOA-2048 (R 10/88)

Subject

Rules Relating to Fermented Malt Beverages

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb
Within Agency's Budget Yes No

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities

2. Decrease Costs
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

Counties Others _____

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The rule changes eliminate obsolete language, clarify rule requirements and update the rules to reflect current industry practice. These changes should have no fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
Wisconsin Department of Revenue
John Tuohy, 266-7817

Authorized Signature/Telephone No. 266-2700

August M. Dennis

Date

11/10/89

FISCAL ESTIMATE WORKSHEET

1989 Session

Detailed Estimate of Annual Fiscal Effect ORIGINAL UPDATED
 DOA-2047(R 10/88) CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
 Tax Rules 7.01 & 7.23

Subject

Rules Relating to Fermented Malt Beverages

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
Note: Treat fiscal costs like a "checkbook": increased costs reduce available funds (-); decreased costs increase available funds (+).			
A. State Costs by Category			
Salaries and Fringes		\$ -	\$ +
Staff Support Costs		-	+
Other State Costs		-	+
Local Assistance		-	+
Aids to Individuals or Organizations		-	+
TOTAL State Costs by Category		\$ -	\$ +
B. State Costs by Source of Funds			
GPR		\$ -	\$ +
FED		-	+
PRO/PRS		-	+
SEG/SEG-S		-	+
C. FTE Position Changes		Increased Pos. + ()	Decreased Pos. - ()
III. State Revenues-			
Complete this only when proposal will increase or decrease state revenues, such as taxes, license fees, etc.		Decreased Rev.	Increased Rev.
GPR Taxes		\$ -	\$ +
GPR Earned		-	+
FED		-	+
PRO/PRS		-	+
SEG/SEG-S		-	+
TOTAL State Revenues		\$ -	\$ +

Net Annualized Fiscal Impact on State & Local Funds

State	Annual Increases	Annual Decreases	Local	Annual Increases	Annual Decreases
Total Costs	\$ -	\$ +	Total Costs	\$ -	\$ +
Total Revenues	+	-	Total Revenues	+	-
NET Impact on State Funds	\$ (+) or (-)	None	NET Impact on Local Funds	\$ (+) or (-)	None

Agency/Prepared by: (Name & Phone No.)
 Wisconsin Department of Revenue
 John Tuohy, 266-7817

Authorized Signature/Telephone No.

Richard M. Owens 266-2700

Date

11/10/89



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

August 3, 1990

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Gary L. Poulson
Assistant Revisor
30 West Mifflin Street, Suite 702
Madison, Wisconsin 53703

Re: Clearinghouse Rule 89-188

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to fermented malt beverages.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/M022070F

Enclosure

cc: Douglas J. LaFollette, Secretary of State
Prentice Hall, Inc.
Commerce Clearinghouse, Inc.



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

August 3, 1990

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Douglas LaFollette
Secretary of State
30 West Mifflin Street, 10th Floor
Madison, Wisconsin 53703

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Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 89-188.

These materials are filed with you pursuant to s. 227.20, Stats.

Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:VLG:lc
CKLEG/M022070G

Enclosure

cc: Revisor of Statutes