

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100011	Alcohol Beverage Laws for Retailers Licenses – Common Questions

State of Wisconsin
Department of Revenue

Alcohol Beverage Laws for Retailers Licenses

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. What does an alcohol beverage license allow?
2. Are licenses and permits the same thing?
3. What types of alcohol beverage licenses are there?
4. I've heard that some licenses are very expensive. Is that true?
5. May a municipality refund the reserve "Class B" initial issuance fee paid by the licensee?
6. How are quotas and reserve licenses determined?
7. I want specific information about licensing. Where do I go?
8. How do I apply for an alcohol beverage license?
9. What are the basic qualifications for a person to get a license?
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11. Are licensing qualifications different if I incorporate?
12. Does the licensee or the agent always have to be at the premises when it is open for business?
13. How do I qualify for an operator's license?
14. What are responsible beverage server training courses?
15. What exceptions are there to the server training course requirement?

1. **What does an alcohol beverage license allow?**

A retail license allows persons to sell alcohol beverages to individual retail customers, from a particular place (premises). The sale must occur at the licensed premises, with the buyer and seller both physically present at the time of sale. Licenses are issued by municipalities (cities, villages, towns) after the governing body (city council, town board, etc.) determines that the applicant is qualified for the license. No one can sell alcohol beverages (or give away for a

commercial purpose) or allow consumption in a public place without getting the appropriate license or permit. (Secs. 125.09(1), 125.25, 125.26, 125.272, 125.315, 125.51, 125.67, Wis. Stats.)

2. **Are licenses and permits the same thing?**

No. Licenses are issued by the municipality where the business is conducted; permits are issued by the state. While there is some functional overlap, retailers are usually covered by licenses and wholesale and production tiers of the industry are generally covered by permits. (Secs. 125.02(9), 125.02(13), Wis. Stats.)

3. **What types of alcohol beverage licenses are there?**

- Class "A" fermented malt beverage licenses allow retail sale of fermented malt beverages (beer) for consumption off the premises. Examples: grocery or convenience stores. (Sec. 125.25, Wis. Stats.)
- "Class A" liquor licenses allow retail sale of intoxicating liquor (including wine) for consumption off the premises. Examples: liquor stores or grocery stores with full liquor sales sections. (Sec. 125.51(2), Wis. Stats.)
- "Class A" (cider only) licenses allow retail sale of cider (any alcohol beverage made from the fermentation of the juice of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 7% alcohol by volume) for consumption off the premises. Class "A" licensees applying for a "Class A" (cider only) license shall be issued the "Class A" (cider only) license. The municipality may not charge an initial issuance fee or annual fee for the "Class A" (cider only) license, but may charge a fee for newspaper publication of the alcohol beverage license application. (Sec. 125.51(2)(e), Wis. Stats.)
- Class "B" fermented malt beverage licenses allow retail sale of fermented malt beverages (beer) for consumption on or off the premises. Examples: restaurants, "beer bars." (Sec. 125.26, Wis. Stats.)
- "Class B" liquor licenses allow retail sale of intoxicating liquor (including wine) for consumption on the premises, and wine in original sealed containers for consumption off the premises. If the municipality elects to, it may also permit sale of not more than four liters of intoxicating liquor at any one time (there are no limits on the quantity of wine that may be sold), in the original sealed container, for consumption off the premises. Check local ordinances for the allowance. State law also allows carryout of a single, opened (resealed) bottle of wine if sold with a meal at either a "Class B" or "Class C" licensed premises. Examples: taverns and restaurants with alcohol beverage service. (Secs. 125.51(3), 125.51(3r), Wis. Stats.)
- "Class C" wine licenses allow the sale of wine for consumption only on the premises and allow the carryout of a single opened (resealed) bottle if sold with a meal. Sale of additional bottles of wine for consumption off the premises is not allowed. (Sec. 125.51(3m), Wis. Stats.)
- Temporary Class B licenses (often called picnic licenses) allow retail fermented malt beverage and/or wine sales, at temporary events like fairs and festivals. Only specified organizations qualify for such a license. Temporary licenses may be issued to:

1. Bona fide clubs.
2. State, county, or local fair associations, or agricultural societies.
3. Churches, lodges, or societies that have been in existence for at least 6 months prior to the date of application.
4. Posts of veterans organizations.
5. Chambers of commerce or similar civic or trade organizations organized under ch. 181, Wis. Stats.

There are several other locally issued licenses or state issued permits that allow retail sale of alcohol beverages under certain circumstances. The licenses listed above are the most common, however. (Sec. 125.51(10), Wis. Stats.)

4. **I've heard that some licenses are very expensive. Is that true?**

In some cases. Fees are set by local municipalities, with limits set by state law. Certain "Class B" liquor licenses are considered "reserve licenses" and are subject to an initial issuance fee of not less than \$10,000. "Class B" liquor licenses are restricted by a population based quota.

If a municipality has granted or issued a number of licenses equal to or exceeding its quota, the municipality may issue an "Above-quota" license for any of the following:

- A full-service restaurant that has a permanent interior seating capacity of 300 or more persons.
- A hotel that has 50 or more rooms of sleeping accommodations with either an attached restaurant (seating capacity of 150 or more persons) or a banquet room (banquets attended by 400 or more persons may be held).
- An opera house or theater for the performing arts operated by a nonprofit organization qualified as a section 501(c)(3) tax exempt organization.

(Sec. 125.51(4), Wis. Stats.)

No initial issuance fee or annual fee may be charged for a "Class A" (cider only) license.

(Sec. 125.51(2)(d)2., Wis. Stats.)

Two reserve "Class B" liquor licenses with an initial issuance fee of not less than \$30,000 are created when a municipality establishes a Premier Economic Development District (PEDD). The PEDD is a geographic area not exceeding 40 acres (with estimated new construction assessed valuation of at least \$20,000,000 certified by an independent third-party appraiser or market research firm) designated by a municipal ordinance. The PEDD must not include land that is zoned exclusively for industrial use or land zoned exclusively for single-family or 2-family residences. (Sec. 125.51(4)(u), Wis. Stats.)

License applications for Class "A", "Class A", "Class A" (cider only), Class "B", "Class B", "Class B" (wine only), and "Class C" (wine) licenses must be published in a newspaper. The publication fee charged shall be the cost of publication as determined by the Department of Administration for publication of legal notices. (Sec. 125.04(3)(g), Wis. Stats.)

5. **May a municipality refund the reserve "Class B" initial issuance fee paid by the licensee?**

No. A municipality may not rebate or refund the initial issuance fee for a reserve "Class B" license to a reserve "Class B" licensee or a person affiliated with the reserve "Class B" licensee. Including through any grant or tax credit program. (Sec. 125.51(3)(e)2, Wis. Stats.)

6. **How are quotas and reserve licenses determined?**

The municipality is responsible for determining quotas and reserve fees, based on formulas in state law. Quotas are based on population and the number of licenses in effect in the municipality as of December 1, 1997. (Sec. 125.51(4), Wis. Stats.)

A municipality may transfer up to 3 reserve "Class B" licenses to a municipality that is contiguous or within 2 miles of the transferring municipality. The transferring municipality establishes the initial issuance fee in an amount not less than \$10,000. Upon receipt of the issuance fee, the receiving municipality shall pay the issuance fee to the transferring municipality. (Sec. 125.51(4)(e), Wis. Stats.)

7. **I want specific information about licensing. Where do I go?**

Licensing decisions, quotas, reserve fees, etc., are all controlled by the municipality. **This is not a responsibility of the Department of Revenue, and Department employees cannot give accurate and timely information about municipal licensing.** For more information regarding the quotas and fees for "Class B" licenses, please contact the clerk of the municipality where the license is issued or will be applied for.

Municipal clerks who need information about quota and reserve license law should seek advice from their municipal attorney or from the appropriate municipal organization that serves them. Cities and villages can contact the [League of Wisconsin Municipalities](#), (800) 991-5502, and towns can contact the [Wisconsin Towns Association](#), (715) 526-3157.

8. **How do I apply for an alcohol beverage license?**

Contact the clerk for the city, village, or town where you wish to do business. The clerk will give you applications and information about legal requirements. After you apply, the clerk will publish the application three consecutive days in a local daily newspaper, or once in a weekly newspaper, to see if there are objections in the community. The licensing authority (city council, council licensing board, town board, etc.) will vote on the application. The license may not be granted until at least fifteen days after the application is filed with the clerk. (Sec. 125.04, Wis. Stats.)

9. **What are the basic qualifications for a person to get a retail license?**

The basic qualifications are:

- You must be of legal drinking age (21).
- You must have resided continuously in Wisconsin for at least 90 days prior to the application date.
- You must have a seller's permit issued by the Department of Revenue. Call (608) 266-2776 or use the department's [Business Tax Online Registration](#).

You must have completed a responsible beverage server training course. Call your local Wisconsin technical college (WTC) for the technical college nearest to you. Visit the WTC website at wistechcolleges.org, or see "[Training](#)" on the Department of Revenue website

for a list of approved online seller/server training.

A criminal record may prevent you from getting a license, as explained below. (Sec. 125.04(5), Wis. Stats.)

10. Can I get an alcohol beverage license if I have a criminal record?

That will largely be up to the municipality to determine. A criminal record is not an automatic bar to getting a license. The municipality must determine whether the violation is something substantially related to the business of selling alcohol beverages. Violations such as selling liquor without a license, tax evasion, etc., are closely related to this business and might well result in the denial of the license application. A record of auto theft may not. The municipality will weigh the nature of the violation, the time that has elapsed since the violation, the person's overall record in the community, etc., in making that determination. (Sec. 125.04(5), Wis. Stats.)

11. Are licensing qualifications different if I incorporate?

A corporation /LLC must meet the seller's permit and criminal offense requirements. The officers must be of legal drinking age and may be affected by a criminal record as described above. The officers and directors need not be residents of Wisconsin, or attend server training, but the agent must be a Wisconsin resident and complete server training. You must appoint a (single) agent, and the agent must meet all the qualifications of an individual applicant. The agent has the authority of a licensee who is a natural person. The agent, like an individual licensee, is in control of the premises and of the business conducted there. (Secs. 125.04(5), 125.04(6), Wis. Stats.)

12. Does the licensee or the agent always have to be at the premises when it is open for business?

No. There must be one or more licensed operators in charge of the premises. An operator's license is often called a "bartender's license." Not all bartenders must hold operator's licenses, but there must be at least one licensed operator in charge of the premises. If the premises is large, with several serving areas, bar areas, etc., licensed operators must be in charge of each distinct area, in order to supervise and direct unlicensed persons who may be selling/serving alcohol beverages. (Secs. 125.32(2), 125.68(2), Wis. Stats.)

13. How do I qualify for an operator's license?

To qualify for an operator's license, you must

- be at least 18 years old,
- meet criminal record requirements, and
- have completed a responsible beverage server training course. Contact your local Wisconsin technical college, or see "[Training](#)" on the Department of Revenue website.

The last requirement can be waived if it is a renewal application or if you held a non-expired Wisconsin alcohol beverage license, including an operator's license, within the past two years. The municipality may issue you a provisional operator's license if you are enrolled in a responsible beverage server training course when you apply. An operator's license is only good

in the municipality that issues it. For instance, if you are issued an operator's license in the City of Milwaukee, you may not use it in a suburban municipality, like Franklin. (Sec. 125.04(5), Wis. Stats.)

14. What are responsible beverage server training courses?

These courses are required to hold alcohol beverage licenses, with some exceptions. They cover alcohol beverage laws, signs of intoxication, safe serving of alcohol beverages, etc. These courses are most often offered by local technical colleges. For further information, contact your local Wisconsin technical college (WTC). To find the technical college nearest you, visit the WTCS website at wistechcolleges.org.

Not all responsible beverage server training courses are taught by technical colleges. Other courses (see "[Training](#)" on the Department of Revenue website) may be substituted for those taught at technical colleges, as long as they have been approved by the Department of Revenue or the Department of Safety and Professional Services (DSPS). Make sure of this approval before enrolling in a responsible server course not offered at a technical college. (Sec. 125.17(6), Wis. Stats.)

15. What exceptions are there to the server training course requirement?

The exceptions to this requirement are

- if you are renewing a Wisconsin retail or an operator's license,
- if you were the agent of a corporation that held a Wisconsin retail license within the past two years,
- if you held a Wisconsin retail or operator's license within the past two years, or
- if you completed a Wisconsin approved server training course within the past two years.

(Sec. 125.17(6), Wis. Stats.)

Applicable Laws and Rules

This document provides statements or interpretations of the following provisions of Wisconsin Statutes in effect as of September 25, 2019: Chapter 125, Wis. Stats.

Laws enacted and in effect after September 25, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to September 25, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

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MS 6-40

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