

**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.

<b>Document Number</b>	<b>Document Title</b>
<b>100012</b>	Alcohol Beverage Laws for Retailers – Underage Alcohol Questions

State of Wisconsin  
Department of Revenue

## Alcohol Beverage Laws for Retailers - Underage Alcohol Questions

**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 is the legal drinking age in Wisconsin?
2. Can children be in a bar with their parents?
3. Can an underage person possess and consume alcohol beverages on licensed premises?
4. Are there other times that underage persons can be on licensed premises?
5. Can "teen nights" or "alcohol free nights" be held at taverns?
6. Are there any places an unaccompanied underage person can possess alcohol beverages?
7. As a licensee, how do I ensure that the person across the bar, at the counter, or at the table is old enough to be there and to drink?
8. A lot of fake IDs are out there. How do I protect myself against being fooled?
9. Is it a serious violation to make a fake ID?
10. You said that underage persons can work at licensed premises. Does this mean any age?
11. Are there any restrictions for underage persons who are musicians or other performers?
12. Can I get into trouble if somebody I serve goes out and injures or kills somebody?
13. Does Wisconsin have a prohibition on hosting underage drinking parties?

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**1. What is the legal drinking age in Wisconsin?**

Twenty-one years of age. This is also the age at which a person can enter or be on licensed premises. There are some exceptions, which we will discuss below. Secs. 125.02(8m), 125.07(3), Wis. Stats.)

**2. Can children be in a bar with their parents?**

Yes. Persons under age 21 may be on licensed premises, if they are with their parents, guardians, or spouses of legal drinking age; but this is at the discretion of the licensee. Sec. 125.07(3), Wis. Stats.

**3. Can an underage person possess and consume alcohol beverages on licensed premises?**

Yes. Persons under age 21 may possess and consume alcohol beverages if they are with their parents, guardians or spouses of legal drinking age; but this is at the discretion of the licensee. The licensed premises may choose to prohibit consumption and possession of alcohol beverages by underage persons. (Sec. 125.07(1), Wis. Stats.)

**4. Are there other times that underage persons can be on licensed premises?**

Yes, there are several. Please see [☞ Publication 302, Wisconsin Alcohol Beverage and Tobacco Laws for Retailers](#), for more information. (Sec. 125.07(3), Wis. Stats.)

**5. Can "teen nights" or "alcohol free nights" be held at taverns?**

There are several ways to legally allow underage persons on licensed premises.

- A municipality (town, village, city) may pass an ordinance allowing underage persons to be in a room on a Class B premises where no alcohol is sold, furnished, served, or consumed by anyone when the underage persons are present. Each time this happens, the local police agency must authorize it in writing. [Sec. 125.07(3)(a)8., Wis. Stats.]
- Underage persons may be present on Class B premises when no alcohol beverages are consumed, sold, or given away. In other words, the place is closed for the sale or consumption of alcohol beverages. The beer, wine, and liquor must be in locked storage, unless the licensee, agent, or person with an operator's license is present. The licensee must notify the local police agency in advance of when this will occur. No written police authorization is required. [Sec. 125.07(3)(a)10., Wis. Stats.]
- Underage persons may be in a dance hall or banquet or hospitality room attached to Class B licensed premises for the purpose of attending a banquet, reception, dance or other similar event. [Sec. 125.07(3)(a)11., Wis. Stats.]

**6. Are there any places an unaccompanied underage person can possess alcohol beverages?**

Yes, an underage person can possess alcohol beverages if that person is employed by a brewer, brewpub, beer and/or liquor wholesaler, or producer of alcohol fuel. If working at a retail licensed premises, the underage person must be at least 18 years of age and hold an operator's license or be working under the immediate supervision of the licensee, agent or licensed operator. If working at a campus, the underage person must be at least 18 years of age and under the immediate supervision of a person 21 years of age or older. The alcohol possession must be during the course of employment. (Sec. 125.07(4)(bm), Wis. Stats.)

**7. As a licensee, how do I ensure that the person across the bar, at the counter, or at the table is old enough to be there and to drink?**

Check the person's identification (ID). If anyone appears to be under 21, you must demand proof of age. Wisconsin residents must show either a valid Wisconsin driver's license with a photo, a valid Wisconsin identification card, a valid military identification card with the person's photo or a valid U.S. passport or a valid identification card issued by a federally recognized American Indian tribe or band in this state (containing the person's photograph and date of birth). (Sec. 125.085, Wis. Stats.)

**8. A lot of fake IDs are out there. How do I protect myself against being fooled?**

Become familiar with current valid driver's licenses and IDs. Compare the questioned ID with a standard, like your own ID. Be suspicious if it looks like the card was altered or tampered with, if it is discolored, or if any of the letters, logos, or photos are poorly applied or partially missing. Do not accept IDs you're unfamiliar with. See [Publication 302, Wisconsin Alcohol Beverage and Tobacco Laws for Retailers](#), for ID checking guidelines. (Sec. 125.085, Wis. Stats.)

**9. Is it a serious violation to make a fake ID?**

Yes. It is a crime punishable by fines and jail time. If you are caught making and selling a fake ID, it is a felony in Wisconsin, punishable by up to \$10,000 in fines and 3 years in prison. If you know someone who makes and sells fake IDs, please contact the Alcohol & Tobacco Enforcement Unit at (608) 266-6701 or report it to your local law enforcement agency. (Sec. 125.085(3), Wis. Stats.)

**10. You said that underage persons can work at licensed premises. Does this mean any age?**

No. They must be over age 14. Children over the age of 12 may work under the direct supervision of their parent or guardian in connection with the parent's or guardian's licensed premises. In addition, they must not be serving, selling, dispensing, or giving away alcohol beverages unless they are at least 18 years of age. If over age 18 and they do not have their own operator's license, they must be under immediate supervision by the licensee, agent, adult member of the licensee's immediate family (a person living in the same household), or a person with an operator's license. (Secs. 125.32(2) & 125.68(2), Wis. Stats)

**11. Are there any restrictions for underage persons who are musicians or other performers?**

If the performer is 16 or 17, he or she may perform on Friday, Saturday, or any other day not followed by a school day. If the performance is in a hall rented to celebrate a special event like a wedding, holiday, birthday, or anniversary, the underage performer may work until midnight on Sunday. There are no such restrictions for performers over 18. (Sec. 125.07(3)(a)9., Wis. Stats.)

**12. Can I get into trouble if somebody I serve goes out and injures or kills somebody?**

While there is a heavy moral burden in such a situation, Wisconsin does not have a "Dram Shop" law making you responsible for mayhem caused by persons you serve, as long as they are of legal drinking age. However, if they are minors (under age 18), you may be convicted of a felony, punishable by up to \$10,000 in fines and 6 years in jail, or \$25,000 in fines and 10 years in jail. (Sec. 125.075, Wis. Stats.)

**13. Does Wisconsin have a prohibition on hosting underage drinking parties?**

Yes, Wisconsin law prohibits an adult from knowingly permitting or failing to take action to prevent the illegal consumption of alcohol beverages by an underage person on any property that is owned and occupied by the adult or occupied by and under the control of the adult. The prohibition applies to a lodging establishment (defined as: a bed and breakfast establishment, hotel, tourist rooming house or campground) only if the adult has furnished payment or security for the lodging. (Sec. 125.07(1)(a)3., Wis. Stats.)

## Applicable Laws and Rules

This document provides statements or interpretations of the following provisions of Wisconsin Statutes in effect as of August 22, 2019: Chapter 125 Wis. Stats.

Laws enacted and in effect after August 22, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to August 22, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

## FOR QUESTIONS OR COMMENTS CONTACT:

MS 6-40

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Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

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