

1981 Assembly Bill 300

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CHAPTER 79 , Laws of 1981

AN ACT to repeal 66.054, 66.055, 66.057 (title), (4) and (5), 139.05 (5) and chapter 176; to renumber and amend 5.64 (2) (c) 5; to amend 5.64 (2) (c) 2 to 4, 68.02 (1), 68.03 (5), 98.02 (2), 139.06 (4), 227.15, 406.102 (3m) and 944.36; and to create 5.64 (2) (c) 5 and 6 and chapter 125 of the statutes; and to repeal laws of 1933, chapter 361, section 4, and laws of 1973, chapter 36, relating to a recodification of alcohol beverage laws, granting rule-making authority and providing penalties.

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

PREFATORY NOTE: This bill is the product of the legislative council's special committee on the recodification of alcohol beverage laws. The special committee was directed, under the terms of 1977 assembly joint resolution 82, to undertake the recodification of the laws governing the sale and taxation of alcohol beverages, but to refrain from making substantive revisions of those laws.

The recommendations of the special committee were introduced late in the 1979 session as 1979 Assembly Bill 1261. This bill is the same as 1979 Assembly Bill 1261, except that it has been updated to reflect 1979 session laws that

were not incorporated into 1979 Assembly Bill 1261. In addition, minor technical, nonsubstantive changes suggested by the legislative reference bureau have been incorporated into the bill.

The 1979 session laws incorporated into this bill are:

1. Chapter 195, laws of 1979, which authorized municipalities to determine, without restriction, the fee which may be charged for an operator's license.
2. Chapter 212, laws of 1979, which authorized minors to enter certain facilities owned by counties and municipalities and authorized the department of revenue to issue "Class B" licenses to certain county-owned municipal-owned facilities.
3. Chapter 212, laws of 1979, which, in part, amended the provisions of law relating to a limited manufacturer's permit for intoxicating liquor used or sold as a fuel.
4. Chapter 284, laws of 1979, which created a quota exception for "Class B" licenses issued to certain places of historic significance.
5. Chapter 331, laws of 1979, which revised the laws relating to sales of alcohol beverages to minors and possession of alcohol beverages by minors.

In addition, the following 1979 session laws were incorporated into 1979 Assembly Bill 1261 in its introduced form, and are also reflected in this bill:

1. Chapter 34, laws of 1979, which, in part, created the limited manufacturer's permit which authorizes the production of intoxicating liquor for use as a fuel and created a quota exception for certain "Class B" licenses issued in good faith prior to July 1, 1978.
2. Chapter 165, laws of 1979, which authorized auctions to be held on Class "B" and "Class B" licensed premises.

The current laws regulating the sale of alcohol beverages are contained in 2 separate chapters of the statutes. The statutes are: ss. 66.054 to 66.057, which regulate the sale and consumption of fermented malt beverages and ch. 176, which regulates the sale and consumption of intoxicating liquor. Chapter 139 regulates the taxing of all alcohol beverages. This bill repeals ss. 66.054 to 66.057 and ch. 176 and recreates the substance of those statutes in a new chapter of the statutes, ch. 125. This bill does not recodify ch. 139, relating to the taxation of alcohol beverages.

Under the bill, ch. 125 is divided into 3 subchapters:

Subchapter I, relating to general provisions (applying to both fermented malt beverages and intoxicating liquor);

Subchapter II, relating to fermented malt beverages; and

Subchapter III, relating to intoxicating liquor.

In addition to providing a major reorganization of the statutes governing the sale of alcohol beverages, the bill makes numerous changes in the statutes to modernize outdated language, remove obsolete provisions, interpret and clarify the law, incorporate provisions of general law, reflect current interpretations and practices, remove conflicts and provide for consistency in the law. In order to achieve these goals, limited substantive changes have been made.

In general, the changes made in the statutes by this bill are explained in the NOTES following each section of the bill. However, some of the statutory provisions which have not been continued in the recodified law are not mentioned in the section NOTES, and thus are briefly described here. They are:

1. Section 176.05 (10) (a), relating to a requirement that intoxicating liquor may only be sold in restaurants, at tables and to seated customers. This provision was deleted because it reflects neither current practice nor the vagaries of human behavior and is unenforceable.

2. Section 176.19 (1) and (2), relating to a restriction on prescribing intoxicating liquor for the treatment of the sick and providing a license exception for such use of alcohol. The license exception provisions are repetitious of s. 125.06 (2) [which recodifies s. 176.04 (3)]. The remainder of s. 176.19 (1) and (2) has been deleted because, substantively, it is a regulation of the practice of medicine.

3. Section 176.35, relating to providing a cause of action for persons injured in person, property or means of support, as a result of the intoxication of a minor or drunkard sold or given intoxicating liquor by any person notified in writing by the spouse, parent, relative, guardian or person having the care or custody of the minor or habitual drunkard, not to sell or give away intoxicating liquor to the minor or habitual drunkard. This provision was deleted because it is not used and appears to be unworkable.

4. Section 176.36, relating to requiring peace officers to make a complaint against a person committing a violation of the intoxicating liquor statutes to a person authorized to issue a criminal warrant, and providing a fine for peace officers who neglect or refuse to do so. This section was deleted as unnecessary and because it does not mesh with current Wisconsin criminal procedure. Under s. 968.04 (3) (a) 1, only judges may issue warrants. Issuance of a warrant is preceded by the issuance of a complaint by the district attorney and the filing of it with the court, under s. 968.02 [unless the district attorney is unavailable or refuses to file the complaint, in which case it can be filed directly with the court under s. 968.02 (3)]: Prior to the passage of chapter 181, laws of 1967, district attorneys were authorized to issue criminal warrants. Similarly, prior to the passage of chapter 255, laws of 1979, municipal justices were empowered to issue criminal warrants.

5. Section 176.40, relating to compulsory testimony regarding violations of the intoxicating liquor statutes. This section was deleted as unnecessary. Section 972.08 may be used to compel testimony regarding violations of the alcohol beverage statutes in a manner similar to that provided by s. 176.40.

Many of the changes in words or phrases used throughout the bill reflect the organization of the bill, the definitions established in s. 125.02 or modern drafting practices. Since some of these changes are made in many places in the bill, they are not described in the NOTES following each of the sections affected. Rather, they are described in the following list:

1. "Alcohol beverages" has been defined to mean fermented malt beverages and intoxicating liquor. Thus, throughout the draft, where the provisions of law refer to both beverages, the term "alcohol beverages" is used.

2. "Sale" of alcohol beverages has been defined to include gifts of alcohol beverages knowingly made to evade the provisions of the law and any transfer, shift, device, scheme or transaction whereby alcohol beverages may be obtained, including the solicitation of orders for alcohol beverages. Thus, throughout the draft, specific references to gifts knowingly made to evade the provisions of law or other transfers of alcohol beverages have been deleted, as appropriate, where the word "sale" is used.

3. "Permit" has been defined in the draft to mean an authorization issued by the department of revenue under the chapter. "License" has been defined to mean an authorization issued by a municipality under the chapter. The words

permit and license have been appropriately used throughout the draft to reflect the authorizations being referred to.

[Note that generally, ss. 66.054 (23) and 176.04 (4a) and (4b) provide that all provisions of s. 66.054 and ch. 176 relating to retail licenses issued by municipalities apply to retail licenses issued by the department (permits under this bill). This result is continued under this bill.]

4. All references to bottlers of fermented malt beverages have been deleted from the draft. In the U.S., only brewers currently bottle fermented malt beverages. Thus, specific reference to, or regulation of, persons, other than brewers, as bottlers of fermented malt beverages, is unnecessary for the purposes of regulating the sale of fermented malt beverages.

5. "Person" has been defined in s. 125.02 (14) to include natural persons, sole proprietorships, partnerships, corporations or associations. Thus, throughout the draft, references to such specific entities are deleted and the term "person" is used, as appropriate.

6. In general, wherever reference is made in current law to the secretary of revenue, reference to the department of revenue has been substituted in this bill. This change was made to reflect current practice.

7. Statements that certain violations of the alcohol beverage laws constitute "misdemeanors" or are punishable by imprisonment for 6 months or less in the county jail are deleted as unnecessary. Section 939.60 provides that a crime punishable by imprisonment in the Wisconsin state prison is a felony. Every other crime is a misdemeanor. Similarly, under s. 973.02, all sentences of 6 months or less are to the county jail.

8. The provisions of the recodified law relating to the issuance of specific licenses and permits have been recodified to clarify to whom the licenses and permits may be issued, e.g., to foreign or domestic corporations. In addition, the provisions relating to the issuance of specific licenses and permits have been clarified in regard to the qualifications for the licenses and permits and the appointment of agents by corporations. In general, s. 125.04 (5) and (6) sets forth the qualifications for licenses and permits and requirements relating to the appointment of agents. In the sections of the draft relating to the issuance of specific licenses and permits, exceptions, if any, to those qualifications and requirements are set forth.

9. In many of the statutes relating to the issuance of specific licenses and permits, specific reference to the requirement that the activity for which the license or permit is provided may not be engaged in unless the license or permit is obtained, has been deleted. Instead, s. 125.04 (1) sets forth a general requirement that no person may sell, manufacture, rectify, brew or engage in any other activity for which the chapter provides a license, permit or other type of authorization without holding the appropriate license, permit or authorization issued under the chapter.

SECTION 1. 5.64 (2) (c) 2 to 4 of the statutes are amended to read:

5.64 (2) (c) 2. Form D2 under s. ~~66.054 (5) (e)~~ 125.05 (1) (a) 1.

3. Form D3 under s. ~~66.054 (5) (e)~~ 125.05 (1) (a) 2.

4. Form D4 under s. ~~176.38 (3)~~ 125.05 (1) (a) 3.

SECTION 2. 5.64 (2) (c) 5 of the statutes is renumbered 5.64 (2) (c) 7 and amended to read:

5.64 (2) (c) 7. Form ~~D5~~ D7 under s. 8.05 (3) (f).

SECTION 3. 5.64 (2) (c) 5 and 6 of the statutes are created to read:

- 5.64 (2) (c) 5. Form D5 under s. 125.05 (1) (a) 4.
- 6. Form D6 under s. 125.05 (1) (a) 5.

NOTE: The changes to s. 5.64 (2) (c) reflect changes in ballot questions made by s. 125.05 (1) (a).

SECTION 4. 66.054 and 66.055 of the statutes are repealed.

NOTE: The substance of ss. 66.054 and 66.055, relating to the regulation of the sale of fermented malt beverages, is recodified in ch. 125.

SECTION 4m. 66.057 (title), (4) and (5) of the statutes are repealed.

SECTION 5. 68.02 (1) of the statutes is amended to read:

68.02 (1) The grant or denial in whole or in part after application of an initial permit, license, right, privilege, or authority, except a ~~fermented malt beverage or intoxicating liquor~~ an alcohol beverage license.

SECTION 6. 68.03 (5) of the statutes is amended to read:

68.03 (5) The grant, denial, suspension or revocation of a ~~fermented malt beverage license under s. 66.054 (13) (b) or intoxicating liquor license under s. 176.11 or 176.12~~ an alcohol beverage license under s. 125.12 (1).

SECTION 7. 98.02 (2) of the statutes is amended to read:

98.02 (2) The term "barrel", when used in connection with fermented liquor malt beverages, means a unit of 31 gallons. The term "ton" means a unit of 2,000 pounds avoirdupois weight. The term "cord", when used in connection with wood intended for fuel purposes, means the amount of wood that is contained in a space of 128 cubic feet when the wood is ranked and well stowed.

SECTION 8. Chapter 125 of the statutes is created to read:

NOTE: The following is a table of contents to chapter 125.

Table of contents to chapter 125

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CHAPTER 125

ALCOHOL BEVERAGES

SUBCHAPTER I

GENERAL PROVISIONS

125.01 Legislative intent. This chapter shall be construed as an enactment of statewide concern for the purpose of providing a uniform regulation of the sale of alcohol beverages.

NOTE: Section 125.01 combines the substance of ss. 66.054 (16) and 176.44.

125.02 Definitions. As used in this chapter:

- (1) "Alcohol beverages" means fermented malt beverages and intoxicating liquor.
- (2) "Brewer" means any person who manufactures fermented malt beverages for sale or transportation.
- (3) "Brewery premises" means all land and buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.
- (4) "Club" means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and which only sells alcohol beverages incidental to its operation.
- (5) "Department" means the department of revenue.
- (6) "Fermented malt beverages" means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more of alcohol by volume.
- (7) "Hotel" means a hotel as defined in s. 50.50 (1), provided with a restaurant.
- (8) "Intoxicating liquor" means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include "fermented malt beverages" which contain less than 5% of alcohol by weight.
- (9) "License" means an authorization to sell alcohol beverages issued by a municipal governing body under this chapter.
- (10) "Manufacturer" means a person, other than a rectifier, that ferments, manufactures or distills intoxicating liquor.

- (11) "Municipality" means a city, village or town.
- (12) "Peace officer" means a sheriff, undersheriff, deputy sheriff, police officer, constable, marshal, deputy marshal or any employe of the department or of the department of justice authorized to act under this chapter.
- (13) "Permit" means any permit issued by the department under this chapter.
- (14) "Person" means a natural person, sole proprietorship, partnership, corporation or association.
- (14m) "Premises" means the area described in a license or permit.
- (15) "Primary American source of supply" means the manufacturer, the rectifier, the owner of intoxicating liquor at the time it becomes a marketable product or the exclusive agent of any such person who, if the product cannot be secured directly from the manufacturer by American wholesalers, is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by American wholesalers, or who, if the product can be secured directly from the manufacturer by American wholesalers, is the manufacturer.
- (16) "Rectifier" means any one of the following:
- (a) A person that rectifies, purifies or refines distilled spirits or wines by any process other than by original and continuous distillation from mash, wort or wash, through continuous closed vessels or pipes, until the manufacture thereof is complete.
- (b) A person who possesses any still or leach tub or keeps any other apparatus for refining distilled spirits.
- (c) A person who after rectifying and purifying distilled spirits, by mixing such spirits with any materials, manufactures any spurious, imitation or compound liquors for sale.
- (d) A distiller or any person under substantially the same control as a distiller who, without rectifying, purifying or refining distilled spirits, by mixing such spirits with any materials, manufactures any spurious, imitation or compound liquors for sale under the name of "whiskey", "brandy", "gin", "rum", "spirits", "cordials" or any other name.
- (e) A person who places intoxicating liquor in bottles or other containers.
- (17) "Regulation" means any rule or ordinance adopted by a municipal governing body.
- (18) "Restaurant" means a restaurant as defined in s. 50.50 (3).
- (19) "Retailer" means any person who sells, or offers for sale, any alcohol beverages to any person other than a person holding a permit or a license under this chapter.
- (20) "Sell", "sold", "sale" or "selling" means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.
- (21) "Wholesaler" means a person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit or license to sell alcohol beverages at wholesale.
- (22) "Wine" means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5% or more of alcohol by volume.

NOTE: 1. Section 125.02 (intro.) restates the substance of ss. 66.054 (1) (intro.) and 176.01 (intro.). "Regulation", as used in this section, is defined in s. 125.02 (17).

2. Section 125.02 (1) is new. "Alcohol beverages" is defined to avoid the use of "fermented malt beverages" and "intoxicating liquor" in sections which apply to both substances.

3. Section 125.02 (2) restates the substance of s. 66.054 (1) (a). The phrase "firm or corporation" is deleted from this definition; see s. 125.02 (14), where "person" is defined to include a firm or corporation. The terms "barter, exchange" are deleted; see s. 125.02 (20), where "sale" is defined to include those terms.

4. Section 125.02 (3) restates the substance of s. 66.054 (1) (k). The changes clarify and modernize the language.

5. Section 125.02 (4) restates the substance of s. 176.01 (8). Because a substantive provision should not be part of a definition, the last sentence of s. 176.01 (8) has been stricken from the definition and is relocated in ss. 125.27 (2) and 125.51 (5) (a) 3. The phrase "or portion thereof" replaces the phrase "except where such club is located in an office or business building it may be licensed as such provided it otherwise qualifies as a club within the meaning of this section". The phrase "which only sells alcohol beverages incidental to its operation" replaces the sentence "The trafficking in intoxicating liquor shall be incidental only and shall not be the object to its existence or operation." The new phrases have been introduced to simplify and clarify the language.

6. Section 125.02 (5) is new. Creating the definition shortens the many references to the department of revenue.

7. Section 125.02 (6) restates the substance of s. 66.054 (1) (j). The term "any beverage" replaces "any liquor or liquid capable of being used for beverage purposes".

8. Section 125.02 (7) restates the substance of s. 176.01 (7). Section 176.01 (7) defined "hotel", in part, as a "building operated by a person holding a license as an innkeeper". Under s. 50.51, a "permit" (instead of a "license") is only issued to those persons operating buildings falling within the definition of "hotel" in s. 50.50 (1). Therefore, s. 176.01 (7), in defining "hotel", could only be referring to a hotel meeting the definition in s. 50.50 (1). Accordingly, this revised definition of "hotel" refers directly to s. 50.50 (1).

In addition, the definition of "hotel" in s. 176.01 (7) required that the building be provided with "sanitary kitchen and dining room equipment...". Nearly identical words were used in s. 176.01 (6) to define a "restaurant". Therefore, s. 125.02 (7) replaces these words with a direct reference to "restaurant".

9. Section 125.02 (8) restates the substance of s. 176.01 (2). The changes clarify and modernize old language. The cross-reference to s. 66.054 is no longer necessary, since "fermented malt beverages" is defined in this chapter.

10. Section 125.02 (9) restates the substance of s. 66.054 (1) (g). Under s. 66.054 and ch. 176, city councils, village boards and town boards are empowered to issue licenses to sell fermented malt beverages and intoxicating liquor. This definition is accordingly expanded to cover the sale of "alcohol beverages" (fermented malt beverages and intoxicating liquor), rather than just fermented malt beverages. "Permit" is deleted to avoid confusion, since that term is distinguished by definition to refer to state-issued authorizations. See s. 125.02 (13). "To sell" replaces "the sale, barter, exchange or traffic".

11. Section 125.02 (10) restates the substance of s. 176.01 (9). A person who "ferments" intoxicating liquor has been included within the definition of a manufacturer to clarify that wineries are manufacturers.

The last sentence of s. 176.01 (9) authorizes manufacturers to sell intoxicating liquor at wholesale if they were doing so on July 5, 1945. Because this sentence is substantive law, it has been deleted from the definition. It has also been deleted from the recodification as obsolete. Also see NOTE 1 following s. 125.69. "Firm or corporation" is deleted; see s. 125.02 (14), where "person" is defined to include a firm or corporation.

12. Section 125.02 (11) is new. It is included to shorten the many references to cities, villages and towns throughout ch. 125.

13. Section 125.02 (12) restates the substance of s. 176.01 (3). The definition is revised to conform to standard drafting format.

14. Section 125.02 (13) is new. "Permits" are distinguished from "licenses", which are issued by local units of government.

15. Section 125.02 (14) restates the substance of s. 176.01 (13). "Sole proprietorship" has been substituted for "firm" in the definition to more precisely define the entities included in the definition. "Natural person" has been added to this definition in order to make it as useful as possible.

16. Section 125.02 (15) restates the substance of s. 176.01 (14). "Bottler" has been deleted from this definition because "rectifier" has been defined in s. 125.02 (16) to include a bottler of intoxicating liquor.

17. Section 125.02 (16) restates the substance of s. 176.01 (10). The last sentence of s. 176.01 (10) provides that a rectifier may sell his product at wholesale. Because this provision is substantive law, it has been deleted from this definition and relocated in s. 125.52 (1). Similarly, the phrase "at the premises designated in the license" is substantive; it has been deleted from this definition and relocated in s. 125.52 (1). Because "distilled spirits" includes "other liquors", the phrase "or other liquors" has been deleted as surplus.

The definition of rectifier has been expanded to include a bottler of intoxicating liquor. This change clarifies the law and achieves consistency with the federal requirement that a person who bottles intoxicating liquor without changing its composition must, nevertheless, hold a rectifier's permit.

18. Section 125.02 (17) restates the substance of s. 66.054 (1) (i).

The requirements that local regulations be "reasonable" and "not in conflict with the provisions of any statute of the state of Wisconsin" are substantive law. The requirement that regulations not conflict with other statutes is recodified in s. 125.10. The statement that regulations be reasonable has been deleted from the draft. See NOTE 2 following s. 125.10.

19. Section 125.02 (18) restates the substance of s. 176.01 (6). Section 176.01 (6) defined "restaurant" as a space owned by a person and "licensed as such". Under s. 50.51, a "permit" (instead of a "license") is only issued to those places falling within the definition of "restaurant" in s. 50.50 (3). Therefore, s. 176.01 (6), in defining "restaurant", could only be referring to a restaurant meeting the definition in s. 50.50 (3). Accordingly, this revised definition of restaurant refers directly to s. 50.50 (3).

20. Section 125.02 (19) restates the substance of ss. 66.054 (1) (d) and 176.01 (12).

The reference to a sale to "any person other than a dealer" is changed to sale to "any person other than a person who holds a license or permit". This change reflects the absence of a definition of "dealer" in ch. 125.

The reference to consumers in s. 176.01 (12) is not made in s. 125.02 (19) because "consumer" has not been defined by the statutes.

21. Section 125.02 (20) restates the substance of s. 176.01 (4). Because “sale” is used in the context of fermented malt beverages and intoxicating liquor, this definition is broadened to include all alcohol beverages.

The phrase “offers to transfer or sell” is not included in this definition. The phrase is only used in provisions relating to the sale of fermented malt beverages. See for example, s. 66.054 (1) (c) and (d), (3) (b) and (5) (a).

Solicitations of orders for, or the sale for future delivery of, alcohol beverages have been included in the definition of “sale”.

22. Section 125.02 (21) restates the substance of ss. 66.054 (1) (c) and 176.01 (11).

The reference to an “offer to sell” fermented malt beverages has been deleted from the definition of a wholesaler.

This new definition of “wholesaler” refers to a person who sells to retailers or wholesalers. It replaces, and incorporates the substance of, the reference to “dealer”, which was defined in s. 66.054 (1) (L) as a person who sold or offered to sell any fermented malt beverages. The definition of “dealer” has not been continued.

23. Section 125.02 (22) creates a definition of “wine” for the purposes of ch. 125.

24. The following definitions have been deleted in the bill: (a) The definition of a “bottler” of fermented malt beverages [s. 66.054 (1) (b)] was deleted because, in the United States, only brewers bottle beer; (b) the definitions of “operator” [s. 66.054 (1) (f)] and “dealer” [s. 66.054 (1) (L)] were deleted because of their infrequent usage; and (c) the definition of “application” [s. 66.054 (1) (h)] was deleted because it is unnecessary.

125.03 Department rule making. (1) **RULES.** The department, in furtherance of effective control, may promulgate rules consistent with this chapter and ch. 139.

(2) **CONTAINERS.** The department may by rule prescribe the standard size, form or character of any container in which intoxicating liquor may be sold in this state except that the department may not set the size of containers in which intoxicating liquor, except wine containing not more than 21% of alcohol by volume, may be sold at a capacity greater than 1.75 liters (59.1752 fluid ounces).

NOTE: Section 125.03 restates the rule-making authority granted the secretary of revenue in ss. 176.42 and 176.43 (3) and assigns it to the department, rather than the secretary, of revenue.

125.04 General licensing requirements. (1) **LICENSE OR PERMIT; WHEN REQUIRED.** No person may sell, manufacture, rectify, brew or engage in any other activity for which this chapter provides a license, permit, or other type of authorization without holding the appropriate license, permit or authorization issued under this chapter.

(2) **LICENSES OR PERMITS ISSUED IN VIOLATION OF CHAPTER.** No license or permit may be issued to any person except as provided in this chapter. Any license or permit issued in violation of this chapter is void.

(3) **APPLICATIONS FOR LICENSES AND PERMITS.** (a) *Contents.* The department shall prepare an application form for each kind of license, other than a manager’s or operator’s license, and for each kind of permit issued under this chapter. Each form shall require all of the following information:

1. A history of the applicant relevant to the applicant’s fitness to hold a license or permit.
2. The kind of license or permit for which the applicant is applying.
3. The premises where alcohol beverages will be sold or stored.

4. Any other information required by this chapter.

(b) *Application for renewing.* The department may prepare a simplified application form for renewal of each kind of license or permit which requires only information pertinent to renewal.

(c) *Distribution.* The department shall furnish upon request blank application forms to each municipality issuing licenses.

(d) *Application form use.* An application form prepared by the department shall be used by each applicant for a permit or license, other than a manager's or operator's license.

(e) *Place of filing applications.* 1. Each application for a license, other than a manager's or operator's license, shall be sworn to by the applicant. The applicant shall file the application for a license with the municipal clerk of the intended place of sale.

2. The applicant shall file the application for a permit with the department.

(f) *Time of filing and issuance.* 1. Except as provided in subd. 2, all applications for licenses to sell alcohol beverages shall be filed with the clerk of the municipality in which the premises are located at least 15 days prior to the granting of the license.

2. In counties having a population of 500,000 or more, the governing body of the municipality shall establish the time, prior to the granting of a license, by which an application shall be filed with the clerk.

(g) *Publication of intoxicating liquor application.* The municipal clerk shall publish each application for a license to sell intoxicating liquor prior to its issuance in a newspaper according to the following conditions:

1. The publication shall include the name and address of the applicant, the kind of license applied for and the location of the premises to be licensed.

2. The newspaper utilized for publication shall have been regularly published, on a daily or weekly basis for a period of not less than 2 years before the date of publication in the municipality in which is located the premises to be licensed.

3. If the municipality in which the premises is located has no newspaper, the newspaper utilized for publication shall be one having circulation in the municipality and designated by the governing body. If no designation is made, publication shall be in the newspaper having the largest circulation in the municipality.

4. The newspaper utilized for publication shall be one that is published on a daily basis, except that a weekly newspaper may be utilized if a daily newspaper is not published in the municipality.

5. The publication shall be printed in a daily newspaper on 3 successive occasions, or if a weekly newspaper is utilized, it shall be printed at least once.

6. At the time the application is filed, the applicant shall pay to the clerk the cost of publication as determined under s. 985.08.

(h) *Subsequent changes.* Within 10 days of any change in any fact set out in an application for a license or permit to sell alcohol beverages, the licensee or permittee shall file with the issuing authority a written description of the changed fact.

(i) *Records.* 1. Any person may inspect applications for licenses to sell alcohol beverages.

2. The clerk of the municipality shall retain all applications made to it for licenses to sell alcohol beverages.

3. The clerk of the municipality may destroy all applications more than 4 years old which have been retained under subd. 2.

(4) APPLICATIONS SENT TO DEPARTMENT; AFFIDAVIT. (a) *Copy of application.* Any municipal official who issues a license to sell alcohol beverages shall mail a copy of the application for the license to the department. The application shall be accompanied by all information relevant to the application and the license which is required by law to be furnished by the municipality to the department.

(b) *Changes.* The municipal official issuing a license under par. (a) shall mail to the department a copy of any change in any fact set out in the application required to be filed with the official under sub. (3) (h).

(c) *Validation.* No license to sell alcohol beverages is valid until the municipal official issuing the license does all of the following:

1. Complies with par. (a).
2. Attaches to the license his or her affidavit of compliance with par. (a).

(5) QUALIFICATIONS FOR LICENSES AND PERMITS. (a) *Natural persons.* Licenses and permits related to alcohol beverages, issued to natural persons under this chapter, may be issued only to persons who:

1. Are of good moral character;
2. Have been residents of this state continuously for at least one year prior to the date of filing the application;
3. Are U.S. citizens; and
4. Are 18 years of age or older.

(b) *Criminal offenders.* No license or permit related to alcohol beverages may, subject to s. 111.32 (5) (a) and (h), be issued under this chapter to any natural person who has habitually been a law offender or has been convicted of a felony unless the person has been duly pardoned.

(c) *Corporations.* No license or permit may be issued to any corporation unless the agent of the corporation appointed under sub. (6) and the officers and directors of the corporation meet the qualifications of pars. (a) and (b), except that par. (a) 2 does not apply to agents of any corporation and par. (a) 2 and 3 does not apply to officers and directors of corporations organized under the laws of states other than this state or foreign countries.

(d) *Operators' and managers' licenses.* 1. Paragraph (a) 2 does not apply to applicants for operators' licenses issued under s. 125.17 or to applicants for managers' licenses issued under s. 125.18 by any municipality other than a 1st class city. In a municipality other than a 1st class city, managers' licenses may be issued only to applicants who are residents of this state at the time of issuance. In a 1st class city, managers' licenses may be issued only to applicants who are residents of the city for at least one year immediately prior to the filing of the license.

2. Paragraph (a) 3 does not apply to applicants for operators' licenses issued under s. 125.17 or managers' licenses issued under s. 125.18.

(6) LICENSES TO CORPORATIONS; APPOINTMENT OF AGENTS. (a) *Agent.* No corporation organized under the laws of this state or of any other state or foreign country may be issued any alcohol beverage license or permit unless:

1. The corporation first appoints an agent in the manner prescribed by the department. In addition to the qualifications under sub. (5), the agent must, with respect to character, record and reputation, be satisfactory to the department.
2. The corporation vests in the agent, by properly authorized and executed written delegation, full authority and control of the premises described in the license or permit of the corporation, and of the conduct of all business on the premises relative to alcohol beverages, that the licensee or permittee could have and exercise if it were a natural person.

(b) *Successor agent.* A corporation may cancel the appointment of an agent and appoint a successor agent to act in the agent's place, for the remainder of the license year or until another agent is appointed, as follows:

1. The successor agent shall meet the same qualifications required of the first appointed agent.

2. The corporation shall immediately notify the department, and the issuing authority if a license is held, in writing, of the appointment of the successor agent and the reason for the cancellation and new appointment.

(c) *Authority of successor.* A successor agent shall have all the authority, perform all the functions and be charged with all the duties of the previous agent of the corporation until the next regular or special meeting of the issuing authority if a license is held. However, the license of the corporation shall cease to be in force if, prior to the next regular or special meeting of the issuing authority, the clerk of the licensing authority receives notice of disapproval of the successor agent by the department or a peace officer of the municipality issuing the license.

(d) *Approval of successor.* The license of the corporation shall not be in force after the next regular or special meeting of the licensing authority unless and until the successor agent or another qualified agent is appointed and approved by the licensing authority and the department.

(e) *Fee.* The corporation shall, following the approval of each successor agent or another qualified agent by the licensing authority and the department, pay to the licensing authority a fee of \$10.

(f) *Resignation.* If an agent appointed under this subsection resigns, he or she shall notify in writing the corporation and the authority issuing the license or permit within 48 hours of the resignation.

(7) **FEDERAL TAX STAMP.** No license or permit to sell alcohol beverages may be issued to any person until the person has provided proof of application for a federal special tax stamp appropriate to the business covered by the license or permit. When the federal special tax stamp is obtained, the stamp or a copy thereof shall be shown to the issuing authority. If within 90 days of the issuance of the license or permit, a federal special stamp has not been shown to the issuing authority, the license or permit shall become invalid unless the holder shows cause why the federal special tax stamp has not been obtained.

(8) **LICENSES NOT VALID UNTIL FEES PAID.** No license for the sale of alcohol beverages may be delivered to the applicant until the applicant files with the municipal clerk a receipt showing payment of the license fee to the appropriate treasurer.

(9) **SEPARATE LICENSE OR PERMIT REQUIRED.** Wholesalers, manufacturers, rectifiers, brewers and retailers shall have a separate permit or license covering each location or premises, except a licensed public warehouse, from which deliveries and sales of alcohol beverages are made or at which alcohol beverages are stored.

(10) **LICENSE AND PERMIT FRAMED, POSTED.** (a) *Frame.* Permits for the retail sale of alcohol beverages, and licenses for the sale of alcohol beverages, shall be enclosed in a frame having a transparent front which allows the license or permit to be clearly read.

(b) *Display.* All permits and licenses under par. (a), other than those for the sale of fermented malt beverages for consumption on the premises issued to the state fair or to county or district fairs receiving state aid, shall be conspicuously displayed for public inspection at all times in the room or place where the activity subject to permit or license is carried on.

(11) **EXPIRATION DATES.** Except as otherwise provided in this chapter:

(a) *Licenses and retail permits.* Licenses and retail permits to sell alcohol beverages shall expire on June 30 of each year.

(b) *Other permits.* All permits, other than those under par. (a), shall expire on December 31 of each year.

(12) TRANSFER OF LICENSES AND PERMITS. (a) *From place to place.* Every alcohol beverage license or permit may be transferred to another place or premises within the same municipality. Transfers shall be made by the issuing authority upon payment of a fee of \$10. No retail licensee or retail permittee is entitled to more than one transfer during the license year. The issuing authority shall promptly notify the department of all transfers.

(b) *From person to person.* 1. Licenses to sell alcohol beverages may be transferred to persons other than the licensee if the licensee, or an applicant for a subsequently granted license, dies, becomes bankrupt or makes an assignment for the benefit of creditors during the license year or after filing the application.

2. Upon the happening of any of the events under subd. 1, the personal representative, the surviving spouse if a personal representative is not appointed, the trustee or the receiver may continue or sell or assign the business.

3. Businesses may be continued under subd. 2 only if the personal representative or surviving spouse is a U.S. citizen.

4. If the business is sold or assigned, the license may be transferred to the successor owner or assignee at no charge if:

- a. He or she complies with the requirements applicable to original applicants; and
- b. He or she is acceptable to the issuing authority and consent to the transfer is given by the issuing authority.

NOTE: 1. Section 125.04 (1) continues the requirements of ss. 66.054 (3) (a) and (5) (a), 176.04 (1) and 176.05 (1a), that no person shall carry on activities for which s. 66.054 and ch. 176 provide a license, permit or other authorization without first securing that license, permit or authorization. Further support for the requirement proposed in sub. (1) is inferred from reading ss. 66.054 (3) (b) and (8) and 176.05 (1d) and (1h).

2. Section 125.04 (2) restates the substance of that portion of s. 176.05 (5) relating to licenses issued in violation of ch. 176 and expands its application from intoxicating liquor to all alcohol beverages.

3. Section 125.04 (3) (a) to (c) utilizes portions of s. 176.05 (1a), (1h), (4b) and (5), which authorize the department to prescribe application forms for licenses and permits.

4. Section 125.04 (3) (d) continues the requirement explicit in s. 176.05 (5) and implicit in s. 176.05 (1a) that department-prescribed application forms for licenses, other than managers' and operators' licenses, and for permits must be used by applicants. It also reflects the requirement in s. 66.054 (5) (d) that the physical act of application be evidenced by use of written forms.

5. Section 125.04 (3) (e) 1 utilizes that portion of s. 176.09 (1) relating to the place at which applications should be filed and reflects the requirement in s. 176.05 (5) that applications must be sworn to by the applicant.

The kinds of applications affected by the filing requirements of s. 176.09 (1) have been expanded from applications for intoxicating liquor licenses to applications for all licenses, other than managers' and operators' licenses. This change reflects the provision in s. 66.054 (5) (a) that only a municipality can issue a license for fermented malt beverages (except in the case of a fermented malt beverage license issued by the department to a country club), which necessarily implies that an application for a fermented malt beverage license is filed with the municipality.

Section 176.05 (1a), (1d), (1f), (1h), (4a) and (4b) state that the department is the source of applications for what are now defined as permits. By implication from these provisions, and in practice, applications for permits are filed with the department; this is made explicit in s. 125.04 (3) (e) 2.

6. Section 125.04 (3) (f) restates in clearer language that part of s. 176.09 (1) relating to when license applications to sell intoxicating liquor must be filed with the clerk and expands the application of the requirement to all alcohol beverages.

7. Section 125.04 (3) (g) restates those portions of s. 176.09 (1), (2) and (3) relating to the publication of applications for licenses to sell intoxicating liquor. Changes have been made to clarify and modernize the language. The requirement in s. 176.09 (2) that the newspaper used must have been "regularly and continuously published daily or weekly" has been changed to "regularly published, on a daily or weekly basis" in subd. 2. If a newspaper conforms to the new description, it is unnecessary to require that it also be published "continuously".

8. Section 125.04 (3) (h) restates s. 176.14 and expands its application from intoxicating liquor to all alcohol beverages.

9. Section 125.04 (3) (i) combines, with changes made for clarity, s. 66.055 and the last sentence of s. 176.05 (5). It expands the authorization to destroy applications more than 4 years old to all cities, villages and towns. Under s. 66.055, this authorization extended only to the city of Milwaukee. Thus, under s. 19.21 (5) (b), the applications in other municipalities would have to be retained for the minimum time set by local ordinance, which could not be less than 7 years unless a shorter time is specified by the public records board under s. 16.61 (3) (e).

10. Section 125.04 (4) (a) clearly states a requirement of local clerks imposed by ss. 66.054 (5) (d) and (18) and 176.05 (8a). Paragraph (c) restates the remainder of ss. 66.054 (18) and 176.05 (8a).

The requirement in par. (b) that local officials forward subsequent changes in fact set out in applications to the department is new.

11. Section 125.04 (5) restates those portions of ss. 66.054 (6), (7), (8), (10m), (11) and (23), 176.05 (1b) and (9) and 176.055 relating to qualifications of persons issued alcohol beverage licenses and permits. Exceptions to these qualifications for specific licenses are provided in the sections of the recodified law relating to the issuance of certain licenses and permits.

The application to corporations of the required qualifications for licenses and permits is clarified. Section 125.04 (5) applies the qualifications to natural persons and to foreign and domestic corporate agents, directors and officers with certain exceptions.

Section 125.04 (5) applies the list of qualifications to all alcohol beverage licensees and permittees and removes certain inconsistencies that exist under current law. For instance:

a. Section 66.054 (6) did not specifically require that wholesalers of fermented malt beverages be U.S. citizens. However, under ss. 66.054 (6) and 176.05 (13), the agents of corporations obtaining fermented malt beverages wholesalers' licenses are required to be U.S. citizens. Section 125.04 (5) (a) 3 provides that wholesalers of fermented malt beverages must be U.S. citizens.

b. Section 66.054 (6) and (7) does not specifically require that fermented malt beverages wholesalers and Class "A" (beer store) retailers be 18 years of age or older. Section 125.04 (5) (a) 4 provides that fermented malt beverages wholesalers and Class "A" retailers must be 18 years of age or older.

c. Under s. 66.054 and ch. 176, the statutory restrictions relating to qualifications for licenses do not apply to brewers. Section 125.04 (5) applies the qualifications to brewers of fermented malt beverages.

d. The requirements of s. 176.05 (9), relating to criminal records of licensees do not apply to applicants for fermented malt beverages licenses. Section 125.04 (5) (b) applies the requirements to all alcohol beverage licenses.

Section 125.04 (5) does not apply to licenses or permits issued under ch. 125 which are not alcohol beverage licenses or permits. In other words, the qualifications do not apply to coin-operated machine distributors. Coin-operated machine distributors are subject to the qualifications set out in s. 139.34 (1) (b) and (c), relating to cigarette licenses. [See s. 125.20.]

12. Section 125.04 (6) (a) to (e) restates s. 176.05 (13) in revised form and broadens its scope to apply to all alcohol beverage licensees and permittees (i.e., brewers are subject to its provisions). It also incorporates the substance of those cross-references to s. 176.05 (13) which are found in ss. 66.054 (6), (7) and (8) and 176.05 (1b). Exceptions to the requirements of sub. (6) are provided in the sections of the recodified law relating to the issuance of certain permits.

Paragraph (a) 1 cross-references s. 125.04 (5), relating to qualifications for corporate agents.

Paragraph (f) adds the requirement that an agent notify principals and the authority which issued the principal's license when the agent resigns.

13. Section 125.04 (7) restates the substance of s. 176.05 (3a) and broadens its scope to apply to all alcohol beverage licenses and permits. Section 176.05 (3a) applies only to licenses to sell intoxicating liquor. Section 125.04 (7) requires proof that the stamp has been applied for before a license or permit will be issued. When the stamp is obtained by the applicant, this section requires that the stamp be shown to the issuing authority. If the stamp is not shown within 90 days, the license or permit will be invalid unless good cause is shown for the failure to show the stamp. Section 176.05 (3a), however, requires that the stamp be obtained before a license may be obtained.

14. Section 125.04 (8) restates that portion of s. 176.05 (5) relating to the requirement that a license is not valid until its fee is paid.

15. Section 125.04 (9) restates s. 176.05 (18) and a corollary requirement in s. 66.054 (5) (d).

The requirement that a separate license or permit be obtained for each place from which "removals" are made is replaced by the requirement that a separate license or permit be obtained for each place where alcohol beverages are "stored". This change more accurately reflects the kinds of places for which separate licenses and permits are required.

16. Section 125.04 (10) restates s. 176.05 (12) and incorporates the relevant portion of s. 66.054 (8) (c). The requirement that the license frame be wood or metal is deleted and the requirement that the frame have a glass front is replaced by the requirement that the front be transparent and permit the license or permit to be clearly read.

17. Section 125.04 (11) incorporates and restates those portions of ss. 66.054 (5) (d) and 176.041 and 176.05 (1h) and (5) which relate to the expiration dates for alcohol beverage permits and licenses.

Sections 66.054 (5) (d) and 176.05 (5) contain a general June 30 expiration date on licenses to sell fermented malt beverages and intoxicating liquor, respectively, and this is applied, in par. (a), to licenses to sell alcohol beverages. The specific additional application of that date to retail permits authorizing a) clubs to sell alcohol beverages, and b) airports and public facilities to sell intoxicating liquor, is based on:

a. The requirement in s. 66.054 (23) that Class "B" licenses issued by the secretary of revenue to country clubs to sell fermented malt beverages must adhere to "all provisions of this chapter relating to Class "B" licenses";

b. The requirement in s. 176.05 (4a) that "Class A" and "Class B" licenses issued by the secretary of revenue to clubs to sell intoxicating liquor must adhere to "all provisions of this chapter relating to "Class A" and "Class B" licenses";

c. The requirement in s. 176.05 (4b) that "Class B" licenses issued by the secretary of revenue to airports and public facilities to sell intoxicating liquor must adhere to "all provisions relating to retail "Class B" intoxicating liquor licenses"; and

d. The exclusion in s. 176.041 that all licenses issued by the secretary of revenue expire on December 31 "unless otherwise specified". Inferentially, this includes those licenses specified in subparagraphs a to c, above.

Paragraph (b)'s application of a December 31 expiration date to all other permits is drawn from s. 176.041, which refers to all permits issued by the secretary of revenue, and s. 176.05 (1h), referring to permits issued to out-of-state shippers.

18. Section 125.04 (12) incorporates and continues s. 176.05 (14) and the relevant portion of s. 176.05 (5). The phrase "personal representative" replaces the terms "executor" and "administrator", to conform to the terminology of the probate code; see s. 851.23. "Issuing authority" uniformly replaces "licensing authority" and "issuing authority" in the 2 statutes merged here.

Paragraph (a) limits the restrictions on transfers during a license year to retail licenses and permits (e.g., under par. (a), the restriction does not apply to fermented malt beverages wholesalers).

125.05 Local option; remonstrances. (1) LOCAL OPTION. Electors of any municipality may determine, by ballot at the election held on the first Tuesday in April, the questions of whether the municipality shall issue retail licenses for the sale of fermented malt beverages or intoxicating liquor or whether a retail store operated by the municipality shall cease operation.

(a) *Questions.* The following questions may be submitted to the electors:

1. "Shall Class "B" licenses (taverns, hotels, restaurants, clubs, societies, lodges, fair associations, etc.) be issued for the retail sale of beer for consumption on or off the premises where sold?"

2. "Shall Class "A" licenses (stores, etc.) be issued for the retail sale of beer in original packages to be consumed away from the premises where sold?"

3. "Shall "Class B" licenses (taverns, restaurants, hotels, etc.) be issued for the retail sale of intoxicating liquor for consumption on the premises where sold?"

4. "Shall "Class A" licenses (stores, etc.) be issued for the retail sale of intoxicating liquor in original packages to be consumed away from the premises where sold?"

5. In the case where a municipal store is operating under s. 176.08, 1967 stats., "Against liquor store?"

(b) *Procedure.* The following procedure shall govern the election under this subsection:

1. A written petition shall be circulated requesting that the question be submitted to the electors of the municipality affected by the question. A separate petition for each question shall be circulated. The contents of the petition shall be governed, as far as applicable, by the provisions of s. 8.15 relating to the use of more than one sheet of paper, the dates of signatures, the residences of the signers and verification of the petition.

2. Petitions shall be circulated by qualified electors who reside within the municipality affected by the question. No petition may be circulated prior to 60 days before the date required for filing.

3. No signature on the petition may be counted unless it was written and dated within 60 days prior to the date required for filing.

4. Petitions shall be signed by a number of qualified electors within the municipality affected by the question equal to at least 15% of the number of votes cast for governor in the affected municipality at the last general election.

5. The petition shall be filed with the clerk of the municipality affected by the question at least 30 days prior to the first Tuesday of April.

6. Within 5 days after the petition is filed, the clerk shall determine the sufficiency of the petition, and shall state the finding in a certificate signed by the clerk, dated and attached to the petition.

7. Within 5 days after the certificate is signed, the clerk shall notify the department in writing of the date upon which the petition was filed, the question to be submitted and the name and address of the municipality.

8. After the conditions of subds. 6 and 7 are satisfied, the clerk shall promptly order that each question stated in a petition found to be sufficient shall be submitted to the electors at the election to be held on the first Tuesday of April following the date of the order.

9. City clerks shall give notice of the election as provided in ch. 10 for notice of a regular city election. Village and town clerks shall give notice of the election by posting written or printed notices in at least 5 public places in the village or town not less than 10 days prior to the election.

10. Each question submitted to the electors shall be on a separate ballot which conforms to s. 5.64 (2) as far as applicable.

11. The election on any question shall be conducted in the same manner as other elections are conducted in the municipality. The canvassers shall determine and immediately certify the results of the election. Within 10 days after the election, the clerk shall notify the department of the results.

(c) *Term of election results.* The result of an election under par. (b) shall remain in effect for 2 years and thereafter unless changed at another election on the question, except that a vote to discontinue operation of a municipal store may not be changed at another election.

(d) *Wholesalers' licenses.* If the election results prohibit the retail sale of fermented malt beverages, the municipality may nevertheless issue wholesalers' licenses to qualified persons on the condition that the wholesaler may not sell or deliver fermented malt beverages within the municipality to any person residing therein.

(2) **REMONSTRANCES.** (a) *Residence district.* In this subsection "residence district" means any clearly described compact, contiguous territory in any municipality bounded by corporation or ward lines, public streets, public alleys or water courses, in which not less than 100 and not more than 750 qualified electors reside.

(b) *No previous licenses.* A residence district may be created in a municipality which has not previously issued a license to sell intoxicating liquor in the residence district if a majority of the district's electors sign and file with the municipal clerk on or before May 1

in any year a written remonstrance describing the boundaries of the residence district and stating that no license may be issued within the district.

(c) *Previous licenses.* A residence district may be created in a municipality which has previously issued a license to sell intoxicating liquor in the residence district if a majority of the district's electors sign and file with the municipal clerk not earlier than May 1 nor later than May 15 in any year, a written remonstrance describing the boundaries of the residence district and stating that no licenses may be issued within the district.

(d) *Limits on district.* The greatest length of a residence district may not be more than 4 times its narrowest width. No part of any one residence district once created by the electors may be used to create another residence district. A residence district or part thereof in which licenses may not be issued may not be used to create another residence district. Property occupied exclusively for educational, religious or charitable purposes and public parks in residence districts may be included in residence districts as residence property, but shall not be used in determining the boundaries or size of any such district.

(e) *Restrictions on licenses in residence districts.* No license to sell intoxicating liquor may be issued in a residence district created under par. (b) or (c) after a remonstrance is filed except:

1. Licenses may be issued for specific locations within a residence district under par. (b) if a majority of the electors in the district sign and file with the municipal clerk written consent for the issuance of licenses for the specific locations.

2. Licenses may be issued in residence districts created under par. (c) if a majority of the electors in the district sign and file with the municipal clerk a counter petition stating that licenses may be issued in that district.

(f) *Exclusions.* The prohibition on the issuance of licenses within a residence district does not apply to:

1. The frontage of that side of any street between intersecting streets in any city or incorporated village upon which one-third of the lineal feet of the property abutting thereon is devoted to or used for a commercial, mercantile, manufacturing or other business purpose.

2. The street frontage on either side of such street if one-third of the lineal feet of property abutting on both sides thereof between intersecting streets is so used.

3. The frontage on either or both sides of a highway in towns or unincorporated villages within a distance of 400 feet if one-third of the lineal feet of the property abutting upon the highway within that distance is so used.

4. Actual and bona fide hotels maintaining, in 1st class cities, 50 or more sleeping rooms for the accommodation of transient guests; in 2nd class cities, 25 or more such rooms; in 3rd class cities, 18 or more such rooms; and in 4th class cities, 10 or more such rooms.

(g) *Documents; signatures and circulation.* The electors signing a remonstrance, consent or counter petition under par. (b), (c) or (e) shall subscribe to the document their names together with, in cities and villages, the street or lot and block numbers of their residences and, in towns, the quarter-section numbers of their residences. Each elector shall sign the document before a resident of the district who is circulating it. Each person circulating a document shall file an affidavit that each signer is a qualified elector of the residence district referred to in the document and that the signers' names and addresses on the document are genuine. No elector may sign more than one remonstrance or counter petition affecting the elector's residence district. The documents may be separate. Any number of persons may circulate the documents.

(h) *Number of electors.* The number of electors in a residence district shall equal the number of names with residences in the district which appear on a registration list as defined in s. 5.02 (17). If there is no registration list, the number of electors shall equal

the number of names with residences in the district which appear on a poll list as defined in s. 5.02 (14) compiled at the last gubernatorial or presidential election, whichever is most recent. A person whose name does not appear on a registration list or poll list may not sign a protest petition, consent or counter petition.

(i) *Notice.* At least 5 days before soliciting signatures to any remonstrance or counter petition, notice of intent to do so, describing the boundaries of the proposed residence district, shall be published as a class 1 notice under ch. 985, in the district described in the remonstrance or counter petition. No remonstrance or counter petition may be filed before proof of compliance with this section is filed with the clerk of the municipality.

(j) *Publication, objections and effects of filing.* Within 10 days after a remonstrance or counter petition has been filed, the officials of the municipality authorized to issue licenses for the sale of intoxicating liquor shall publish a class 1 notice, under ch. 985, within the residence district stating that at a hearing held on a day fixed by the officials:

1. The officials will examine and consider the remonstrance or counter petition.
2. Any person objecting to the sufficiency of the remonstrance or counter petition may appear before the officials and file objections to the remonstrance or counter petition.
3. The officials shall consider the objections.
4. The officials shall identify any material defect in the remonstrance or counter petition and point them out to the persons who filed the remonstrance or counter petition.
5. The persons who filed the remonstrance or counter petition shall be permitted to correct the defects within 15 days after the hearing.
6. If the defects are corrected, no license may be issued within the residence district except as provided in pars. (e) and (f). If the defects are not corrected, licenses may continue to be issued within the district.

NOTE: 1. Section 125.05 (1) merges the substance of ss. 66.054 (5) (c) and 176.38.

The questions set forth in par. (a) are based on current law, with the exception of subd. 5. Subdivision 5 and the last clause of sub. (1) (intro.) are necessary because of the existence of "grandfathered" municipal stores authorized under s. 176.08 prior to November 1969. Since that time, municipal stores have been prohibited.

Two questions in par. (a) 3 and 4 — one relating to "Class A" licenses and one relating to "Class B" licenses — replace one question in s. 176.38. The two questions parallel the questions in par. (a) 1 and 2, relating to fermented malt beverages.

2. Section 125.05 (2) merges the substance of ss. 176.20 to 176.25.

125.06 License and permit exceptions. No license or permit is required under this chapter for:

(1) **BREWERS' PREMISES.** The furnishing, by brewers, of fermented malt beverages free of charge to customers, visitors and employes on the brewery premises if the fermented malt beverages are consumed on the brewery premises and are not furnished or consumed in or near any room or place where intoxicating liquor is sold.

(2) **HOSPITALS; PRACTICE OF MEDICINE OR SURGERY.** (a) The use of alcohol beverages in institutions licensed under subchs. I and II of ch. 50 where the beverages are used solely for medicinal, mechanical or scientific purposes.

(b) The use or prescription of alcohol beverages by a person licensed to practice medicine or surgery in the treatment of the sick.

(c) Notwithstanding pars. (a) and (b), a permit to receive shipments of alcohol under s. 125.61 must be obtained before alcohol beverages may be used or prescribed under pars. (a) and (b).

(3) **HOMEMADE WINE OR FERMENTED MALT BEVERAGES.** The manufacture of wine or fermented malt beverages of any alcoholic content by any person at his or her home, farm or place of residence if the wine or fermented malt beverages is to be consumed by that person or his or her family and guests, and if the person manufacturing the wine or fermented malt beverages receives no compensation.

(4) **UNADULTERATED CIDER.** The manufacture or sale of unadulterated apple cider.

(5) **RAILROADS, AIRCRAFT, STEAMBOATS.** (a) The sale of alcohol beverages on any railroad dining, buffet or cafe car or aircraft, while in transit. Alcohol beverages may be consumed in a railroad dining, buffet or cafe car or aircraft only while it is in transit.

(b) The sale of fermented malt beverages on any steamboat while in transit.

(6) **PUBLIC PARKS.** The sale of fermented malt beverages in any public park operated by a county or municipality. Fermented malt beverages shall be sold by officers or employees of the county or municipality under an ordinance, resolution, rule or regulation enacted by the governing body. Receipts from the sales shall be deposited in the treasury of the county or municipality.

(7) **JUDICIAL, PERSONAL REPRESENTATIVE'S, GUARDIAN'S, RECEIVER'S OR TRUSTEE'S SALE.** The sale of alcohol beverages at any judicial, personal representative's or guardian's sale or any sale by a receiver or trustee in insolvency or bankruptcy, where the estate being administered possesses a license or permit in effect on the date of such sale.

(8) **SALE BY SECURED PARTY.** The sale of alcohol beverages by a secured party in good faith under the terms of a security agreement, if the sale is not for the purpose of avoiding this chapter or ch. 139. The sale must be in the ordinary course of the business of lending money secured by a security interest in alcohol beverages or warehouse receipts or other evidence of ownership.

(9) **CERAMIC BOTTLE COLLECTORS.** The sale of ceramic commemorative bottles or other uniquely designed decanters which contain intoxicating liquor, by collectors of such containers to other collectors of such containers. Unbroken federal tax stamps shall be on any containers so sold.

NOTE: 1. Section 125.06 restates the substance of ss. 66.054 (4) (b) and (5) (e), 176.04 (3) and (4), 176.05 (7) and (20), 176.45 and 176.46 and makes various changes in those statutes, as described below.

2. Subsection 125.06 (1) deletes the statement found in s. 66.054 (4) (b) that no *license fee* shall be required of brewers furnishing fermented beverages under its provisions because the statement is redundant; if no license is required, there is no authority to require license fees.

3. In s. 125.06 (2), "alcohol beverages" has been substituted for "intoxicating liquor" and "alcohol" [used in s. 176.04 (3)], except for the reference in par. (c) to a permit to receive "alcohol" (a medicinal alcohol permit). This clearly identifies the beverage for which the exception is provided and broadens the exception to include fermented malt beverages.

4. In s. 125.06 (2) (a), "institutions licensed under subchs. I and II of ch. 50" has been substituted for "hospitals and...bona fide institutions for the aged and infirm" [used in s. 176.04 (3)] to clarify which institutions are included in the exception. Subchapter I of ch. 50 regulates "care and service residential facilities" (primarily, nursing homes) and subch. II regulates hospitals.

5. Section 176.45, which provides that nothing in the chapter "shall be construed to prevent" the manufacture of homemade beer or wine, and s. 176.46 which provides that nothing in the chapter "shall be construed to affect" the manufacture or sale of unadulterated apple cider, have been recodified in s. 125.06 (3) and (4) as license exceptions.

6. The exceptions for railroads and aircraft contained in ss. 66.054 (5) (e) and 176.05 (7) have been changed in s. 125.06 (5) to provide consistent treatment of fermented malt beverages and intoxicating liquor. As a result, the authorization for the sale, without a license or permit, of fermented malt beverages on a railroad *sleeping car* has been eliminated. The restriction that intoxicating liquor may be *consumed* only in railroad dining, buffet and cafe cars or aircraft while in transit has been broadened to include fermented malt beverages.

7. The restriction that intoxicating liquor may be sold on railroads and aircraft only to “bona fide passengers or other persons actually being transported” was not included in s. 125.06 (5) (a). [This restriction is contained in s. 176.05 (7).] Passengers and other persons transported include everyone being transported.

8. In s. 125.06 (7), a “personal representative’s” sale has been substituted for an “executor’s” or “administrator’s” sale [used in s. 176.05 (20)] to reflect current terminology.

9. In s. 125.06 (7) and (8), the exceptions for a judicial, personal representative’s, guardian’s, receiver’s, trustee’s or pledgee’s sales [from s. 176.05 (20)] have been broadened to include fermented malt beverages as well as intoxicating liquor.

10. The term “secured party” has been substituted for “pledgee” and the terms “security agreement” and “security interest” have been substituted for “pledge” in s. 125.06 (8).

125.07 Restrictions on sales to minors and intoxicated persons; presence of minors in places of sale and possession by minors; penalties. (1) SALES OF ALCOHOL BEVERAGES TO MINORS. (a) *Restrictions*. 1. No person may procure for, sell, dispense or give away any fermented malt beverages to any person under the age of 18 years not accompanied by his or her parent, guardian or adult spouse, or procure for, sell, dispense or give away any intoxicating liquor to any person under the age of 18 years.

2. No licensee or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any person under the age of 18 years not accompanied by his or her parent, guardian or adult spouse or sell, vend, deal or traffic in intoxicating liquor to or with any person under the age of 18 years.

(b) *Penalties and license suspension for sale to minor*. 1. In this paragraph, “violation” means a violation of this subsection or a local ordinance which strictly conforms to this subsection.

2. A person who commits a violation is subject to a forfeiture of:

a. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation; or

b. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

3. A court shall suspend any license or permit issued under this chapter to a person and shall revoke the person’s right to purchase stamps from the department for:

a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;

b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or

c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 other violations.

4. The court shall promptly mail notice of a suspension under this paragraph to the department and to the clerk of each municipality which has issued a license or permit to the person.

(c) *Minors' penalties.* Any person under the age of 18 years who procures or attempts to procure alcohol beverages is subject to a forfeiture of not more than \$25, except that disposition in proceedings against a person who is under 18 years of age on the date of disposition shall be as provided by s. 48.344.

(2) SALES OF ALCOHOL BEVERAGES TO INTOXICATED PERSONS. (a) *Restrictions.* 1. No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.

2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

(b) *Penalties.* Any person who violates par. (a) shall be fined not less than \$100 nor more than \$500 or imprisoned for not more than 60 days or both.

(3) PRESENCE IN PLACES OF SALE; PENALTY. (a) *Restrictions.* No person under the age of 18 years, not accompanied by his or her parent, guardian or adult spouse, may enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employe. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:

1. A person under the age of 18 years who is a resident, employe, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.

2. A person under the age of 18 years who enters or is on a "Class A" retail intoxicating liquor premises for the purpose of purchasing edibles or beverages other than alcohol beverages. Any person under the age of 18 years so entering the premises may not remain on the premises after the purchase.

3. Hotels, drug stores, grocery stores, bowling alleys, cars operated by any railroad, regularly established athletic fields, stadiums, or public facilities as defined in s. 125.51 (5) (b) 1.d which are owned by a county or municipality.

4. Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in chs. 27 and 28, and parks owned or operated by agricultural societies.

5. Ski chalets and golf clubhouses.

6. Premises operated under both a Class "B" or "Class B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

7. A person under the age of 18 years who enters or remains on a Class "B" or "Class B" premises for the purpose of transacting business at an auction or market as defined in s. 125.32 (4) (b) 1, if the person does not enter or remain in a room where alcohol beverages are sold or furnished.

(b) *Penalties.* 1. A licensee or permittee who directly or indirectly permits a person under the age of 18 years to enter or be on a licensed premises in violation of par. (a) is subject to a forfeiture of not more than \$500.

2. A person under the age of 18 years who enters or is on a premises licensed for the sale of alcohol beverages in violation of par. (a) is subject to a forfeiture of not more than \$25, except that disposition in proceedings against a person who is under 18 years of age on the date of disposition shall be as provided by s. 48.344.

(4) **POSSESSION OF ALCOHOL BEVERAGES; CONSUMPTION IN PUBLIC PLACES; PENALTIES.** Any person under the age of 18 years who knowingly possesses or who consumes in public any intoxicating liquor or any person under the age of 18 years, not accompanied by his or her parent, guardian or adult spouse, who knowingly possesses or who consumes in public any fermented malt beverages is subject to a forfeiture of not more than \$25, except that disposition in proceedings against a person under 18 years of age on the date of disposition shall be as provided by s. 48.344. This subsection does not prevent a person under the age of 18 years in the employ of a licensee or permittee from possessing fermented malt beverages for sale or delivery to customers.

(5) **MISREPRESENTATION OF AGE; PENALTY.** Any person who falsely represents that he or she is 18 years of age or over for the purpose of receiving alcohol beverages from a licensee or permittee is subject to a forfeiture of not more than \$25, except that disposition in proceedings against a person who is under 18 years of age on the date of disposition shall be as provided by s. 48.344.

(6) **DEFENSE OF SELLERS.** Proof of the following facts by a seller of alcohol beverages to a person under the age of 18 years is a defense to any prosecution for a violation of this section.

(a) That the purchaser falsely represented in writing and supported with other documentary proof that he or she was 18 years of age or over.

(b) That the appearance of the purchaser was such that an ordinary and prudent person would believe the purchaser to be 18 years of age or over.

(c) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser was 18 years of age or over.

(7) **BOOK KEPT BY LICENSEES AND PERMITTEES.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purposes of this subsection. The licensee or permittee or his or her employe shall require any person who has shown documentary proof which substantiates that the person is 18 years of age or over to sign the book if the person's age is in question. The book shall show the date of the purchase of the alcohol beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

NOTE: 1. Section 125.07 restates and revises the substance of ss. 66.054 (9) (b) and (c), (19), (20) and (22), 66.057 (4) and (5), 176.27, 176.28, 176.30 (1) and (2), 176.31 and 176.32.

2. The phrase "keeper of any place" for the sale of alcohol beverages used in ss. 66.054 (19) and (22), 176.30 (1), 176.31 (1) and 176.32 (1) has been replaced by "licensee or permittee" in s. 125.07 (1) and (2). The purpose of this substitution is to clarify that the phrase includes persons holding a license or permit authorizing the conduct of alcohol beverage business on the licensed premises and persons holding operators' and managers' licenses.

3. The prohibitions contained in s. 176.30 (1) against keepers of any place for the sale of intoxicating liquor selling, vending, giving away or trafficking in intoxicating liquor to or with minors or intoxicated persons have been broadened to include fermented malt beverages in s. 125.07 (1) and (2). The reference to sales to persons "bordering on a state of intoxication" has been deleted as too vague to be given meaningful application.

4. Under s. 176.30 (1), no person may procure for, sell or give away any intoxicating liquor to an intoxicated person. The similar prohibition for fermented malt beverages only provides that no person may *sell* fermented malt beverages to an intoxicated person [s. 66.054 (9) (c)]. Under s. 125.07 (2), the prohibitions against procuring for or giving away intoxicating liquor to an intoxicated person have been expanded to include fermented malt beverages.

5. The phrase “procure for, sell, dispense or give away” is uniformly used in s. 125.07 (1) and (2). No substantive change in the law is intended.

6. Section 176.31 (2) provides a penalty for a minor who procures or seeks to procure intoxicating liquor. Section 125.07 (1) expands the scope of the penalty to include minors who procure or seek to procure fermented malt beverages.

7. Sections 66.054 (19) and 176.32 (1) prohibit minors from being on Class “B” fermented malt beverages premises and any place for the sale of intoxicating liquor, with certain exceptions. These prohibitions have been recodified in s. 125.07 (3) (a) (intro.) to apply to all premises for which a license or permit for the retail sale of alcohol beverages has been issued.

8. Sections 66.054 (19) and 176.32 provide that a minor may not be on licensed premises for any purpose, except the transaction of “bona fide business other than amusement or the purchase, receiving or consumption of edibles or beverages”. Section 125.07 (3) (a) (intro.) clarifies that the business for which minors may be on the premises must pertain to the licensed premises and be conducted with or for the licensee or his or her employe. For instance, a minor may not meet another person in a bar to transact business. Section 125.07 (3) (a) (intro.) also clarifies that in addition to being prohibited from being on the premises to purchase, receive or consume edibles and beverages, minors may not be on the premises for any other activities which constitute activities normally engaged in by customers. For instance, minors may not enter the premises to play pinball or pool.

9. Section 66.054 (19) provides an exception which permits a minor who is a resident, employe, lodger or boarder to be on Class “B” premises after the legal closing hour. This exception has been deleted because it is included in s. 125.07 (3) (a) 1 which recodifies a different portion of ss. 66.054 (19) and 176.32 (1) and permits such minors to be on the premises licensed for the retail sale of alcohol beverages at any time.

10. The exceptions contained in s. 66.054 (19) which authorize minors to be on Class “B” premises in certain parks and forests are expanded in s. 125.07 (3) (a) 4 to apply to all premises in such parks and forests for which any retail alcohol beverage license has been issued.

11. The exceptions contained in s. 176.32 (1) (c) which authorize minors to be present on premises licensed for the sale of intoxicating liquor in ski chalets and golf clubhouses have been recodified to apply to any premises in a ski chalet or golf clubhouse for which a retail alcohol beverage license has been issued.

12. The exception contained in s. 176.32 (1) (e), which permits minors to be on “Class A” premises to purchase beverages and edibles, has been modified in s. 125.07 (3) (a) 2 to specifically provide that minors may not loiter on the premises.

13. Section 125.07 (4) expands the penalty for minors who consume intoxicating liquor in public [s. 176.31 (2)] to include the consumption of fermented malt beverages in public.

14. Section 176.31 (2) provides a penalty for minors who “knowingly possess” intoxicating liquor. Section 66.054 (20) (b) provides a penalty for minors who “possess” fermented malt beverages. The word “knowingly” was included in s. 125.07 (4) which recodifies ss. 66.054 (20) (b) and 176.31 (2). Thus, before persons may be prosecuted for possession, they must “know” they possess alcohol beverages [see s. 939.23 (2)].

15. Section 176.31 (1) prohibits minors from misrepresenting their age for the purpose of asking for or receiving intoxicating liquor “unless authorized by law”. There is no similar phrase in s. 66.054 (22) relating to misrepresenting age for the purpose of asking for or receiving fermented malt beverages. This phrase has been deleted in s. 125.07 (5), which recodifies ss. 66.054 (22) and 176.31 (1) because minors are not anywhere authorized to misrepresent their age.

125.09 General restrictions. (1) **PUBLIC PLACE.** No owner, lessee or person in charge of a public place may permit the consumption of alcohol beverages on the premises of the public place, unless the person has an appropriate retail license or permit. This subsection does not apply to municipalities, buildings and parks owned by counties, regularly established athletic fields and stadiums, school buildings, churches, premises in a state fair park or clubs.

(2) **POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED.** (a) In this subsection:

1. “Motor vehicle” means a motor vehicle owned, rented or consigned to a school.
2. “School” means a public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
3. “School administrator” means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

4. “School premises” means premises owned, rented or under the control of a school.

(b) Except as provided by par. (c) no person may possess or consume alcohol beverages:

1. On school premises;
2. In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
3. While participating in a school-sponsored activity.

(c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.

(d) A person who violates this subsection is subject to a forfeiture of not more than \$200, except that disposition in proceedings against a person who is under 18 years of age on the date of disposition shall be as provided by s. 48.344.

(3) **PLACE-TO-PLACE DELIVERIES.** No person may peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.

(4) **FREE MEALS.** No person holding a license or permit to sell alcohol beverages may give away or permit to be given away any meals, except popcorn, cheese, crackers, pretzels, sausage, fish, bread and butter on the licensed premises. Any person who violates this subsection shall be fined not less than \$50 nor more than \$100.

(5) **FREE ALCOHOL BEVERAGES IN RESTAURANTS.** No person holding a permit to operate a restaurant may give away or permit to be given away any alcohol beverages on the restaurant premises. Any person violating this subsection shall be fined not less than \$50 nor more than \$100.

(6) **MUNICIPAL STORES.** No municipality may engage in the sale of alcohol beverages, except as authorized under s. 125.26 (6). This subsection does not apply to municipal stores in operation on November 6, 1969.

NOTE: 1. Section 125.09 (1) restates the substance of s. 176.05 (24). The exception for a "building owned by a municipality" has been deleted because it is included in the exception for a "municipality". "Municipality" has been substituted for "city, village or town". Reference to a retail license or permit authorizing the consumption of the alcohol beverages on the public place has been substituted for references to Class "B" and "Class B" licenses. No substantive change is intended. County parks have been added to the exception in the 2nd sentence of sub. (1).

2. Section 125.09 (2) restates and combines the substance of ss. 66.054 (1) (m) to (p) and (24) and 176.29.

3. Section 125.09 (3) restates and combines the substance of ss. 66.054 (21) and 176.66. Reference to peddling house to house "by means of a truck or otherwise" has been deleted as unnecessary. Any means of concurrent delivery and sale from house to house is prohibited.

4. Section 125.09 (4) restates the substance of that portion of s. 176.50, relating to free lunches on licensed premises. Section 125.09 (5) restates the substance of that portion of s. 176.50, relating to giving away alcohol beverages in restaurants. Reference to "directly or indirectly" giving away meals or alcohol beverages has been deleted in s. 125.09 (4) and (5) as unnecessary. Reference to "furnishing" alcohol beverages "free of charge" has been deleted because it is included in "giving away" alcohol beverages. No substantive change in the law is intended.

5. Section 125.09 (6) restates the substance of s. 176.08. The last sentence of s. 176.08 is deleted because it is redundant.

125.10 Municipal regulation. (1) **AUTHORIZATION.** Any municipality may enact regulations incorporating any part of this chapter and may prescribe additional regulations for the sale of alcohol beverages, not in conflict with this chapter. The municipality may prescribe forfeitures or license suspension or revocation for violations of any such regulations. Regulations providing forfeitures or license suspension or revocation must be adopted by ordinance.

(2) **REGULATION OF MINORS.** A municipality may adopt an ordinance regulating conduct regulated by s. 125.07 (1), (3), (4) and (5) or 125.09 (2) only if it strictly conforms to the statutory section.

(3) **ZONING.** Except as provided in ss. 125.05 and 125.68, this chapter does not affect the power of municipalities to enact or enforce zoning regulations.

(4) **CHECK-OUT CLERKS.** No municipality may enact an ordinance forbidding persons 18 years of age or over from acting as check-out clerks or delivery personnel in grocery stores licensed to sell fermented malt beverages or prohibiting such check-out clerks from selling fermented malt beverages on the licensed premises or delivering them from the licensed premises to the cars or homes of customers.

NOTE: 1. Section 125.10 restates and revises the portions of ss. 66.054 (1) (i), (12), (13) (a) and (c) and (15) and 176.43 relating to municipal regulation of alcohol beverages. The authorization to municipalities to provide penalties, not to exceed those provided under state law, has been replaced by an authorization to municipalities to provide civil forfeitures for violations of ordinances relating to the alcohol beverage laws. Municipalities may not, and the legislature may not authorize municipalities to, prescribe *Criminal penalties* for violations of ordinances, even if the ordinances are in strict conformity

with state law [see *State ex rel. Keefe v. Schmiede*, 251 Wis. 79 (1946)]. Also see s. 66.115. Reference to payment of the board for any person imprisoned as a result of an ordinance violation is deleted for the same reason.

2. The authorization to prescribe regulations has been restated to clarify that the regulations may incorporate state law or provide additional regulations so long as the regulations do not conflict with state law.

3. Specific mention of the requirement that a municipal regulation be “reasonable” [see s. 66.054 (1) (i) and (12)] has been deleted in s. 125.10 (1) as unnecessary. The test used by courts when municipal regulations are challenged is one of “reasonableness” [see *Kmiec v. Town of Spider Lake*, 60 Wis. 2d 640, 652 (1973)].

4. Section 125.10 (1) authorizes municipalities to prescribe municipal regulations on the sale of alcohol beverages. Under s. 125.01 (17) “regulation” means “any rule or ordinance adopted by a city council or town or village board”. Thus, regulations on the sale of alcohol beverages may be prescribed by ordinance or *by rule*. However, s. 125.10 (1) provides that regulations providing civil forfeitures or license suspension or revocation may only be prescribed by ordinance [also, see ss. 66.054 (15) (b) and 176.43]. This ensures procedural due process (notice, hearing, etc.) in the development of regulations imposing such sanctions.

5. The provisions of s. 176.43, relating to zoning, have been expanded to apply to laws related to fermented malt beverages as well as laws related to intoxicating liquor.

125.11 Penalties. (1) VIOLATIONS OF CHAPTER. (a) *First offense.* Any person who violates any provision of this chapter for which a specific penalty is not provided, shall be fined not more than \$500 or imprisoned for not more than 90 days or both. Any license or permit issued to the person under this chapter may be revoked by the court.

(b) *Felony.* If a person is convicted of a felony under this chapter, in addition to the penalties provided for the felony, the court shall revoke any license or permit issued to the person under this chapter.

(c) *Subsequent offenses.* If a person is convicted of a 2nd or subsequent offense to which par. (a) applies in the same license year as a prior conviction to which par. (a) applies, in addition to the penalties provided for the offense under par. (a), any license or permit issued to the person under this chapter shall be forfeited without notice and the person shall forfeit the right to purchase any stamps from the department.

(2) VIOLATIONS OF DEPARTMENT’S RULES. Any person who violates any rule promulgated by the department under s. 125.03 (1) shall be fined not more than \$500 or imprisoned for not more than 90 days or both.

(3) IMPERSONATING AN OFFICER. Any person who impersonates an inspector, agent or other employe of the department or of the department of justice shall be fined not less than \$500 nor more than \$1,000 or imprisoned in the county jail for not less than 6 months nor more than one year or both.

NOTE: 1. Section 125.11 restates the substance of ss. 66.054 (15) and 176.41, relating to penalties for violators of the alcohol beverage statutes for which specific penalties are not provided, s. 176.43 (4), relating to penalties for violations of rules promulgated by the secretary of revenue, and s. 176.65, relating to penalties for impersonating an officer.

3. Section 125.11 (1) (c) clarifies ss. 66.054 (15) (b) and 176.41 by incorporating conclusions of 2 attorney general’s opinions. These changes clarify that the additional penalties for 2nd or subsequent offenses apply only where: (a) the conviction for the 2nd or subsequent offense occurs in the same year as the

conviction for the first offense [35 OAG 96 (1946)]; and b) both the first and 2nd or subsequent offenses are ones to which par. (a) applies, i.e., those for which no specific penalties are provided elsewhere in the chapter [35 OAG 375 (1946)]. For fermented malt beverages, 2nd clarification was made by ch. 331, laws of 1979.

4. The penalties provided under s. 176.43 for violations of rules promulgated by the secretary of revenue [promulgated by the department under s. 125.03 (1)] are greater than the general penalty provisions for violations of the statutes. The penalties are recodified in s. 125.11 (2) to be the same as those provided under the general penalty provisions for violations of the statutes.

125.12 Revocations, suspensions, refusals to issue or renew. (1) **REVOCA-TION, SUSPEN-SION, NONISSUANCE OR NONRENEWAL OF LICENSE.** Any municipality or the department may revoke, suspend or refuse to renew any license or permit under this chapter, as provided in this section.

(2) **REVOCA-TION OR SUSPENSION OF LICENSES BY LOCAL AUTHORITIES.** (a) *Com-plaint; summons.* Any resident of a municipality issuing licenses under this chapter may file a sworn written complaint with the clerk of the municipality alleging that a person holding a license issued under this chapter by the municipality has violated this chapter or municipal regulations adopted under s. 125.10, keeps or maintains a disorderly or riotous, indecent or improper house, has sold or given away alcohol beverages to known habitual drunkards or does not possess the qualifications required under this chapter to hold the license. Upon the filing of the complaint, the municipal governing body shall issue a summons, signed by the clerk and directed to any peace officer in the municipality. The summons shall command the licensee complained of to appear before the municipal gov-erning body on a day and place named in the summons, not less than 3 days and not more than 10 days from the date of issuance, and show cause why his or her license should not be revoked or suspended. The summons and a copy of the complaint shall be served on the licensee at least 3 days before the time at which the licensee is commanded to appear. Service shall be in the manner provided under ch. 801 for service in civil actions in circuit court.

(b) *Procedure on hearing.* If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the municipal governing body finds the allegations sufficient, the license shall be revoked. The clerk shall give notice of the revocation to the person whose license is revoked. If the licensee appears as required by the summons and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense. If, upon the hearing, the municipal governing body finds the complaint to be true, the license shall either be suspended for not less than 10 days nor more than 90 days or revoked. The clerk shall give notice of the suspension or revocation to the person whose license is suspended or revoked. If the municipal governing body finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the municipal governing body finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant. The municipal governing body may require the complainant to provide security for such costs before issuing the summons under par. (a).

(c) *Effect of revocation.* When a license is revoked under this subsection, the revoca-tion shall be recorded by the clerk and no other license issued under this chapter may be granted within 12 months of the date of revocation to the person whose license was re-voled. No part of the fee paid for any license so revoked may be refunded.

(d) *Judicial review.* The action of any municipal governing body in granting or failing to grant, suspending or revoking any license, or the failure of any municipal governing body to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any

applicant, licensee or resident of the municipality. The procedure on review shall be the same as in civil actions instituted in the circuit court. The person desiring review shall file pleadings, which shall be served on the municipal governing body in the manner provided in ch. 801 for service in civil actions and a copy of the pleadings shall be served on the applicant or licensee. The municipal governing body, applicant or licensee shall have 20 days to file an answer to the complaint. Following filing of the answer, the matter shall be deemed at issue and hearing may be had within 5 days, upon due notice served upon the opposing party. The hearing shall be before the court without a jury. Subpoenas for witnesses may be issued and their attendance compelled. The decision of the court shall be filed within 10 days after the hearing and a copy of the decision shall be transmitted to each of the parties. The decision shall be binding unless it is appealed to the court of appeals.

(3) **REFUSALS BY LOCAL AUTHORITIES TO RENEW LICENSES.** A municipality issuing licenses under this chapter may refuse to renew a license for the causes provided in sub. (2) (a). Prior to the time for the renewal of the license, the municipal governing body shall notify the licensee in writing of its intention not to renew the license and provide the licensee with an opportunity for a hearing. The notice shall state the reasons for the intended action. The hearing shall be conducted as provided in sub. (2) (b) and judicial review shall be as provided in sub. (2) (d).

(4) **SUSPENSION OR REVOCATION OF LICENSES ON COMPLAINT OF THE DEPARTMENT.**
(a) *Complaint; summons.* A duly authorized employe of the department may file a complaint with the clerk of circuit court for the jurisdiction in which the premises of a person holding a license issued under this chapter is situated, alleging that the licensee has violated this chapter, keeps or maintains a disorderly or riotous, indecent or improper house, has sold alcohol beverages to known habitual drunkards, has failed to maintain the premises in accordance with the standards of sanitation prescribed by the department of health and social services, has permitted known criminals or prostitutes to loiter on the licensed premises or does not possess the qualifications required under this chapter to hold the license. Upon the filing of the complaint, the clerk of the court shall issue a summons commanding the licensee to appear before the court not less than 20 days from its date of issuance and show cause why his or her license should not be revoked or suspended. The summons and a copy of the complaint shall be served at least 20 days before the date on which the person is commanded to appear. Service shall be in the manner provided in ch. 801 for civil actions in circuit court.

(b) *Procedure on hearing.* If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the court finds the allegations sufficient, it shall order the license either suspended for not more than 90 days or revoked. The clerk of the court shall give notice of the suspension or revocation to the person whose license is suspended or revoked. If the licensee appears and answers the complaint, the court shall fix a date for the hearing not more than 30 days after the return date of the summons. The hearing shall be had before the court without a jury. If upon the hearing the court finds the allegations of the complaint to be true, it shall order the license either suspended for not more than 90 days or revoked. If the court finds the allegations of the complaint to be untrue, the complaint shall be dismissed.

(c) *Effect of revocation or suspension.* When a license is revoked or suspended under this subsection, the clerk of court shall notify the authority which issued the license. If the license is revoked, no other license may be issued under this chapter to the person whose license was revoked or to any person related to him or her as owner, lessor, bailor or lender, within the 12 months after the date of revocation and no other license may be granted for the premises covered by the revoked license within 60 days of the date of revocation. The findings and order of the court shall be filed within 10 days after the hearing and the order shall be final unless appeal is taken to the court of appeals. If an appeal is taken from a revocation, any period during which the order is stayed shall be

added to the 12 months and 60 days, respectively. No part of the fee paid for any license which is revoked may be refunded. Whenever any court has revoked or suspended any license under this subsection, no further proceedings shall be commenced under this subsection except upon grounds arising after the original revocation or suspension.

(5) REVOCATIONS OR SUSPENSIONS OF, OR REFUSALS TO RENEW, PERMITS BY THE DEPARTMENT. The department may, after notice and an opportunity for hearing, revoke, suspend or refuse to renew any retail permit issued by it for the causes provided in sub. (4) and any other permit issued by it under this chapter for any violation of this chapter or ch. 139. A revocation, suspension or refusal to renew is a contested case under ch. 227.

NOTE: Section 125.12 restates and revises ss. 66.054 (11) (d), (13) (b), (14) and (17), 176.11, 176.12, 176.121 (1) to (3) and 176.43 (5) and the portions of ss. 66.054 (5) (d), (15) and (23), 176.05 (1a), (4a) and (4b) and 176.41, relating to license or permit suspension, revocation or nonrenewal.

Section 125.12 revises the procedures to ensure that prior to any revocation or suspension of, or refusal to renew, an alcohol beverage license or permit, the licensee or permittee is afforded 1) notice of the charges upon which the action is predicated, and 2) a hearing at which the licensee or permittee has an opportunity to challenge the charges and present and cross-examine witnesses. In addition, the permittee or licensee may have a written transcript of the hearing made at his or her own expense [in the case of revocation by the department, see s. 227.07 (8); in the case of court revocation on complaint of the department, see s. 757.57 (5)]. These notice and hearing requirements appear to be required by the due process clause of the U.S. constitution [see *Menos v. Green Bay*, 372 Fed. Supp. 40 (E.D. Wis. 1974), relating to license nonrenewals].

Section 125.12 specifically provides that revocations, suspensions and nonrenewals of alcohol beverage permits by the department of revenue are contested cases under ch. 227 [s. 125.12 (5)] and creates a requirement that local licensing bodies provide notice and an opportunity for a hearing on license nonrenewals [s. 125.12 (3)]. These provisions are new and were added to meet due process requirements. In addition, in order to meet due process requirements, s. 125.12 makes other changes in the procedures for revocations and suspensions by local licensing bodies. The changes are described in the following NOTES.

1. Section 66.054 (13) (b) provides that any municipality may revoke or *refuse to issue* any license for the sale of fermented malt beverages for the causes and as provided in s. 176.11. However, the procedures set forth in s. 176.11 appear to be appropriate for license suspension or revocation but not for the issuance of a license. Thus, that portion of s. 66.054 (13) (b), relating to issuance of licenses has not been included in s. 125.12. [However, see s. 125.12 (2) (d) and NOTE 2k on court review of granting of licenses.]

2. Section 125.12 (2) recodifies ss. 66.054 (13) (b), 176.11 and 176.12, relating to procedures for municipal licensing bodies to revoke intoxicating liquor and fermented malt beverages licenses issued by them and makes the following changes:

a. Specific reference to the authorization to revoke or suspend licenses for selling alcohol beverages to minors or intoxicated persons in s. 176.11 has been deleted in s. 125.12 (2) (a) because it is included in the broader authorization in that paragraph to revoke or suspend licenses for violations of the chapter.

b. The authorization to revoke or suspend licenses for failure to observe or obey "any order of such supervisors, trustees, aldermen or county superintendent of the poor, or any of them, made pursuant to law" in s. 176.11 has been deleted in s. 125.12 (2) (a) because it appears to relate to the procedures under

ss. 176.26 to 176.29, 1969 Wis. stats., which permitted a person's wife or various officials to "post" certain individuals as persons to whom the sale of intoxicating liquor was forbidden. The U.S. supreme court held those sections unconstitutional in *Wisconsin v. Constantineau*, 400 U.S. 433 (1971).

c. Specific authorization has been added to revoke or suspend licenses for failure to meet the qualifications for holding a license provided under the chapter. One of the purposes of this change is to provide consistent treatment of criminal offenses for which licenses may be revoked and those which disqualify a person from obtaining a license or permit. [Also see NOTE 4b.]

d. Under s. 176.11 the summons commands a licensee to appear before the issuing authority to show cause why his or her license should not be "revoked". Under s. 125.12 (2) (a) this has been changed to "revoked or suspended" because, after a hearing, the local authority may revoke "or suspend" the license [see s. 125.12 (2) (b)]. This parallels language in s. 176.121 [recodified in s. 125.12 (3)], relating to revocations of licenses issued by municipalities on the complaint of the department.

e. Section 176.11 requires that the summons be served on the licensee named in the complaint. Section 125.12 (2) (a) also requires that a copy of the complaint be served on the licensee. This parallels the requirement for service in s. 176.121, relating to revocations of licenses issued by municipalities on complaint of the department [see s. 125.12 (3)].

f. In s. 125.12 (2) (a), service of summons in the manner provided in civil actions in circuit court has been substituted for service "either personally or upon the person in charge" of the licensed premises in s. 176.11.

g. Section 176.12, relating to procedures on hearing and effect of revocation by local licensing authorities is not specifically applied to revocation of fermented malt beverages licenses. However, the reference to "such person" in the first sentence of s. 176.12 refers to persons covered by s. 176.11, and s. 176.11 applies to fermented malt beverages licensees [see s. 66.054 (13) (b)]. Therefore, the reference to "such persons" in s. 176.12 may include fermented malt beverages license holders. For this reason, and because no other provisions relating to procedures on hearing and effect of revocation of fermented malt beverages licenses are contained elsewhere in the statutes, s. 125.12 (2) (b) and (c) recodifies s. 176.12 to apply to both intoxicating liquor and fermented malt beverages licenses.

h. Section 176.12 requires that if a person does not appear, as required by the summons, his or her license shall be revoked and notice shall be given to the person that the license is revoked. Section 125.12 (2) (b) specifies that the municipal clerk shall give such notice. Section 125.12 (2) (b) also requires the clerk to give the person notice of the issuing body's decision of revocation or suspension following a hearing at which the licensed person appears. Section 176.12 is silent on such notice.

i. Section 176.12 permits persons appearing in response to a summons to be "heard by counsel" at the hearing. Section 125.12 (2) (b) replaces the word "heard" with "represented". No substantive change in the law is intended.

j. Section 125.12 (2) (b) specifically provides that a person appearing in response to a summons has the right to cross-examine witnesses and obtain a written transcript of the hearing at his or her own expense. Section 176.12 contains no similar provisions.

k. Section 66.054 (14) provides for court review of decisions of local licensing authorities relating to the *granting* of fermented malt beverages licenses as well as the revocation or the failure to revoke such licenses. There is no similar

provision relating to intoxicating liquor licenses. Section 125.12 (2) (d) recodifies s. 66.054 (14) to apply to both fermented malt beverages and intoxicating liquor licenses. In addition, it clarifies that court review is provided for a *failure* to grant a license, as well as a grant of a license and for suspensions and failures to suspend. Section 125.12 (3) also expands the coverage of s. 125.12 (2) (d) to renewals and nonrenewals of licenses. Under s. 66.054 (14), court review is provided for failure to revoke only where the alleged offenses were violations of the beverage laws. Section 125.12 (2) (d) provides for court review of any failure to suspend, revoke or renew.

3. Section 125.12 (3) is new. It provides for notice, an opportunity for a hearing and court review of license renewals.

4. Section 125.12 (4) recodifies ss. 66.054 (17) and 176.121 (1) to (3), relating to revoking and suspending alcohol beverage licenses issued by municipalities upon complaint of the department of revenue and makes the following changes:

a. Specific reference to the authorization to revoke or suspend licenses for selling alcohol beverages to minors and intoxicated persons has been deleted in s. 125.12 (4) (a) because it is included in the authorization to revoke or suspend for violations of the chapter.

b. Specific reference to authorization to revoke or suspend licenses for certain offenses including criminal offenses has been deleted. The authorizations to revoke or suspend for violations of the chapter or failing to meet required qualifications in s. 125.12 (4) (a) relate to the same issues. By referring to the required qualifications consistent treatment of criminal offenses for which licenses may not be issued and those for which licenses may be revoked or suspended is provided.

c. In s. 125.12 (4) (a), service of summons in the manner provided in civil actions in civil court has been substituted for "personally or upon the person in charge" of the licensed premises in s. 176.121 (1).

d. Section 176.121 (2) provides that when a license is revoked by a court on complaint of the department, for 12 months no other license may be granted to the person or to "any person in privity of interest with him or her as owner, lessor, bailor or lender...." Subsection (4) (c) substitutes the modernized term "related to" for "privity of interest with".

5. Section 125.12 (5) clarifies that revocations, suspensions and nonrenewals of permits by the department of revenue are contested cases under ch. 227. Thus, the procedures of ch. 227 relating to notice, hearings and court review apply to such actions.

6. Under s. 66.054 (23), retail fermented malt beverages licenses issued by the department to country clubs may be revoked or suspended as provided in s. 66.054 (17), relating to court revocation on complaint of the department. Under s. 125.12 (4), such court revocation applies only to licenses issued by municipalities. Retail fermented malt beverages licenses [permits under ch. 125] issued by the department to country clubs may be revoked, after notice and an opportunity for a hearing, by the department under s. 125.12 (5).

7. Under s. 66.054 (23), retail fermented malt beverages licenses issued by the department may be revoked or suspended on complaint of the department for violations of law *or* other causes. Under s. 176.05 (4a) and (4b), retail intoxicating liquor licenses issued by the department to country clubs, airports and public facilities may be revoked or suspended by it for violations of ch. 139 or 176. Under s. 125.12 (5), all retail alcohol beverage permits issued by the department may be revoked or suspended by the department for violations of ch.

125 or 139 or for other causes. The other causes are the same as those for which the department may seek revocation of licenses issued by municipalities. Under s. 125.12 (5), other (nonretail) permits issued by the department may be revoked or suspended by the department for violations of ch. 125 or 139. This continues current law [ss. 176.05 (1a) and 176.43 (5)].

8. See this bill's amendment to s. 227.15 which allows court review of revocations, suspensions and nonrenewals by the department of permits issued by it.

125.13 Report of suspension, revocation or imposition of penalty. Whenever a municipal governing body or court revokes or suspends a license or permit or imposes a penalty on a licensee or permittee for the violation of this chapter, the clerk of the municipality or court revoking or suspending the license or imposing the penalty shall, within 10 days after the revocation, suspension or imposition of penalty, mail a report to the department at Madison, Wisconsin, giving the name of the licensee, the address of the licensed premises and a full description of the penalty imposed.

NOTE: Section 125.13 restates the substance of s. 176.121 (5).

125.14 Enforcement provisions. (1) **ARREST.** Any peace officer may arrest without warrant any person committing in his or her presence a violation of this chapter or ch. 139 and may, without a search warrant, seize any personal property used in connection with the violation.

(2) **CONFISCATION; DISPOSAL.** (a) *Contraband.* All alcohol beverages owned, possessed, kept, stored, manufactured, sold, distributed or transported in violation of this chapter or ch. 139 and all personal property used in connection therewith is unlawful property and may be seized by any peace officer. Any peace officer confiscating personal property under this section may proceed under this section.

(c) *Identification.* Any person seizing alcohol beverages or personal property and electing to dispose of it under this subsection shall exercise reasonable diligence to ascertain the name and address of the owner of the alcohol beverages or property and of all persons holding a security interest in the property seized. The person shall report his or her findings in writing to the department.

(d) *Order.* Upon conviction of any person for owning, possessing, keeping, storing, manufacturing, selling, distributing or transporting alcohol beverages in violation of this chapter or ch. 139, the court shall order part or all of the alcohol beverages or personal property seized to be destroyed if it is unfit for sale. Alcohol beverages and other personal property fit for sale shall be turned over to the department for disposition. Upon receipt of the confiscated property, the department shall exercise reasonable diligence to ascertain the names and addresses of all owners of the property and of all persons holding a security interest in the property. If a motor vehicle is confiscated, the department shall obtain the written advice of the department of transportation as to the ownership of the motor vehicle and shall make a reasonable search for perfected security interests in the vehicle.

(e) *Disposal.* The department shall dispose of the alcohol beverages turned over to it by the court by either giving it to state-operated veterans' hospitals in amounts needed for medicinal purposes, selling it to the highest bidder if the bidder is a person holding a license or permit issued under this chapter, or destroying it, at the discretion of the department. If the department elects to sell the alcohol beverages, it shall publish a class 2 notice under ch. 985 asking for sealed bids from qualified bidders. Any items or groups of items in the inventory subject to a security interest, the existence of which was established in the proceedings for conviction as being bona fide and as having been created without the secured party having notice that the items were being used or were to be used in connection with the violation, shall be sold separately. The net proceeds from the sale, less all costs of seizure, storage and sale, shall be turned over to the state treasurer and credited to the common school fund.

(f) *Sale*. Any personal property, other than alcohol beverages, seized under par. (a) and fit for sale, shall be turned over by the department to the department of administration for disposal at public auction to the highest bidder, at a time and place stated in a notice of sale which describes the property to be sold. The sale shall be held in a conveniently accessible place in the county where the property was confiscated. A copy of the notice shall be published as a class 2 notice under ch. 985. The last insertion shall be at least 10 days before the sale. The department of revenue shall serve a copy of the notice of sale at least 2 weeks before the date thereof on all persons who are or may be owners or holders of security interests in the property. Any confiscated property worth more than \$100 shall be sold separately, and the balance of the confiscated property shall be sold in bulk or separately at the discretion of the department of administration. The net proceeds from the sale, less all costs of seizure, storage and sale, shall be turned over to the state treasurer. No motor vehicle or motorboat confiscated under this section may be sold within 30 days after the date of seizure.

(3) **RECOVERY OF CONFISCATED PROPERTY.** (a) *Application*. Prior to sale under sub. (2) (f), the owner of confiscated property may apply to a court of record in the county where the property was seized for an order restoring the property to the owner. After the sale, the owner may apply to the court for a refund of the amount realized on the sale. After the sale, any holder of a security interest in the property may apply to the court for a refund of the sum realized on the sale of property subject to the security interest, but not more than the amount due under the security agreement.

(b) *Deadline*. The application shall be made within one year after the sale of the property. A copy of the application and the order setting a hearing on it shall be served on the department at least 20 days before the date set for hearing.

(c) *Grounds*. Relief shall be granted only after a showing by the applicant that he or she is the true owner or holder of a bona fide security interest in the property seized; that the violation which led to the confiscation was not with his or her knowledge, consent or connivance; and, that he or she had no reasonable grounds to believe or suspect that the property would be used in a violation.

(d) *Costs*. The court may determine whether the applicant shall pay the costs of seizure and sale as a condition of obtaining relief. Allowance of costs and disbursements shall be within the discretion of the court.

(4) **BONDED WRECKER.** The department may contract with bonded wreckers to destroy stills seized under sub. (2) (a) and turned over to it under sub. (2) (d).

(5) **NUISANCES.** Any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured or rectified without a valid permit or license issued under this chapter or ch. 139, or where persons are permitted to drink alcohol beverages in violation of this chapter is a public nuisance and may be closed until the activity in violation of this chapter is abated. When the activity is abated, the building or place may be used for any lawful purpose.

(6) **FORM OF COMPLAINT.** In a prosecution for a violation of a statute relating to the sale of alcohol beverages it is not necessary to allege in the complaint, information or indictment the kind or quantity of alcohol beverages sold or the person to whom it was sold. It is sufficient to allege generally that the defendant sold alcohol beverages at a time and place mentioned, together with a brief statement of the facts showing that the sale was a violation of this chapter.

NOTE: 1. Section 125.14 (1) restates the substance of s. 176.63 relating to the arrest powers of peace officers.

2. Section 125.14 (2) and (3), relating to confiscation of property connected with violations of ch. 125, restates the substance of s. 176.62.

The deletion of express authority to duly authorized employees of the departments of revenue and justice to confiscate property was made because such persons are “peace officers”, as that term is defined in s. 125.02 (12).

The definitions of “lienor” or “lien claimant” found in s. 176.62 (4) are deleted and the general phrase “holder of a security interest” is substituted in place of these terms.

3. Section 125.14 (4) restates the substance of s. 176.71. Subsection (4) also explicitly states that the department may not destroy a seized still until a court turns the still over to the department under sub. (2) (d). This condition has been added to clarify the existence of the due process rights of the still owner in court.

The word “illicit” has been deleted in s. 125.14 (4) because its meaning is vague and it appears unnecessary to use it. Presumably, any still seized pursuant to the confiscation provisions would be illicit.

4. Section 125.14 (5) restates the substance of s. 176.72. The specific term “alcohol”, found in s. 176.72 (last reference) is deleted; any beverage consumed which would be called “alcohol” would fall within the definition of “alcohol beverages”. The last sentence, which is new, clearly states that a closing under this subsection remains effective only until the activity in violation abates.

5. Section 125.14 (6) restates the substance of the first sentence of s. 176.37 (2) and expands its application from intoxicating liquor to alcohol beverages. The 2nd sentence of that subsection is deleted.

125.15 Furnishing bail. No person holding a license or retail permit relating to alcohol beverages may furnish bail for any person charged with violating this chapter or ch. 139.

NOTE: Section 125.15 restates the substance of s. 176.15.

125.16 Actions to recover price denied. No action may be brought to recover the price of any alcohol beverages sold in violation of this chapter or ch. 139.

NOTE: Section 125.16 restates the substance of s. 176.67.

125.17 Issuance of operators’ licenses. (1) **AUTHORIZATION.** Every municipal governing body may issue operators’ licenses. Operators’ licenses may not be required other than for the purpose of complying with ss. 125.32 (2) and 125.68 (2). Operators’ licenses may be issued only upon written application.

(2) **VALIDITY.** Operators’ licenses are valid only within the issuing municipality.

(3) **FEE.** The municipal governing body shall establish by ordinance a fee for the operator’s license. The license shall be valid for one or 2 years, as determined by the municipal governing body, and shall expire on June 30, except in 1st class cities the license shall expire on December 31.

NOTE: Section 125.17, granting local units of government the authority to issue operators’ licenses and relating to a person’s eligibility for that license, restates the substance of s. 66.054 (11) (a) and (c), as affected by chapter 23, laws of 1979. Sections 66.054 (11) (b) and 176.05 (11), requiring certain persons to obtain an operator’s license, is recodified in ss. 125.32 (2) and 125.68 (2).

125.18 Issuance of managers’ licenses. (1) **AUTHORIZATION.** A municipal governing body may provide by ordinance for the issuance of managers’ licenses. Managers’ licenses may not be required other than for the purpose of complying with ss. 125.32 (1) and 125.68 (1). Managers’ licenses may be issued only upon written application.

(2) **VALIDITY.** Managers’ licenses are valid only within the issuing municipality.

(3) **FEE.** The municipal governing body may establish by ordinance a fee for the manager's license, but the fee may not exceed \$25 per year. The license shall be valid for no more than one year and shall expire on June 30 except in 1st class cities the license shall expire on December 31.

NOTE: 1. Section 125.18, granting local units of government the authority to issue managers' licenses and relating to a person's eligibility for that license, restates the substance of s. 66.054 (10m) (a), (am), (b) and (e). Sections 66.054 (10m) (c) and 176.05 (10m) (a), requiring certain persons to obtain the license, are recodified in ss. 125.32 (1) and 125.68 (1).

2. The qualifications for persons issued managers' licenses are recodified in s. 125.04 (5).

3. The exception to the requirement that the department furnish application forms for manager's licenses [s. 66.054 (10m) (e)] is recodified in s. 125.04 (3) (d).

125.19 Alcohol beverage warehouse permit. (1) **ISSUANCE.** The department shall issue an alcohol beverage warehouse permit which authorizes the permittee to store and warehouse alcohol beverages in warehouse premises covered by the permit, subject to rules adopted by the department. The permit does not authorize the sale of any alcohol beverages.

(2) **ELIGIBILITY.** Alcohol beverage warehouse permits may be issued to any person qualified under s. 125.04 (5), except a person acting as an agent for or in the employ of another.

(3) **FEE.** The annual fee for an alcohol beverage warehouse permit is \$100 for each place covered by a permit.

NOTE: 1. Section 125.19 restates the substance of ss. 176.04 (3) and 176.05 (1d) as it applies to public warehouse permits.

2. The description of the permit has been changed from "public warehouse permit" to "alcohol beverage warehouse permit" to avoid confusion with the public warehouse permit issued by the department of agriculture, trade and consumer protection.

3. The requirement in s. 176.05 (1d) that permit fees be deposited in the state treasury and credited to the general fund is not continued. Sections 20.906 (1) and 25.20, Wis. stats., already ensure that result.

125.20 Coin-operated machine distributors; permit; restrictions. (1) **PERMIT REQUIRED.** No person may set up coin-operated cigarette machines, jukeboxes or amusement devices on premises covered by a license or permit issued under this chapter without obtaining a permit from the department to engage in such business.

(2) **FORMS.** The department shall prescribe the application forms for the permit required by this section.

(3) **OTHER REQUIREMENTS.** Applicants for permits under this section must satisfy the requirements of s. 139.34 (1) (b) and (c) to qualify for a permit.

(4) **REVOCATION.** The department may revoke a permit issued under this section after a hearing if the permittee does any of the following:

(a) Uses force, violence or threats of force or violence to obtain locations for the coin-operated machines.

(b) After receiving the permit does not satisfy the qualifications of s. 139.34 (1) (b) and (c).

(5) **WRITTEN DENIAL OR REVOCATION.** Any department denial of an application for a permit issued under sub. (1) or order of revocation of the permit shall be in writing and shall give the reasons for the denial or revocation. The denial or revocation is subject to review under ch. 227.

(6) **PENALTY.** No person holding a permit issued under this section may engage in the loan, use or forbearance of money, goods or things in action to any person holding a license or permit issued under this chapter. Any person who violates this subsection shall be fined not more than \$5,000 or imprisoned for not more than one year in the county jail or both. If the holder of a permit issued under this section is convicted of a violation of this subsection, the department shall revoke the permit.

(7) **EXEMPTION.** This section does not apply to persons holding cigarette vending machine operators' permits under s. 139.34 (1).

(8) **GENERAL PENALTY.** A person who violates this section, other than sub. (6), is subject to s. 125.66 (1).

NOTE: Section 125.20 restates the substance of ss. 176.052 and 176.053. The place of imprisonment for violations of sub. (6) has been clarified.

SUBCHAPTER II

FERMENTED MALT BEVERAGES

125.25 Class "A" licenses. (1) Every municipal governing body may issue Class "A" licenses for the sale of fermented malt beverages from premises within the municipality. A Class "A" license authorizes retail sales of fermented malt beverages for consumption off the premises where sold and in original packages, containers and bottles.

(2) Class "A" licenses may be issued to any person qualified under s. 125.04 (5), except a person acting as an agent for or in the employ of another.

(3) Class "A" licenses shall particularly describe the premises for which issued and are not transferable, except under s. 125.04 (12). A Class "A" license is subject to revocation for violation of any of the terms or provisions thereof.

(4) The fee for a Class "A" license shall be determined by the municipal governing body issuing the license.

NOTE: 1. Section 125.25 restates the substance of parts of s. 66.054 (5) (a), (b) and (d) and (7), relating to issuance of Class "A" licenses.

2. Section 66.054 (5) (b) provides that municipalities "shall have the power, but shall not be required" to issue Class "A" licenses. Subsection (1) provides that municipalities "may" issue Class "A" licenses. No substantive change in the law is intended.

3. In the description of what is authorized by a Class "A" license in sub. (1), "off" the premises where sold has been substituted for "away from" the premises to clearly define what sales are authorized and provide consistency with the description of what is authorized by retail intoxicating liquor licenses.

4. The cross-reference to s. 125.04 (12) has been added to sub. (3) to clarify that Class "A" licenses may be transferred as provided in that section.

125.26 Class "B" licenses. (1) Every municipal governing body may issue Class "B" licenses for the sale of fermented malt beverages from premises within the municipality. A Class "B" license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises. Persons holding a Class "B" license may sell beverages containing less than 0.5% of alcohol by volume without obtaining a license under s. 66.053 (1).

(2) Class "B" licenses may be issued to any person qualified under s. 125.04 (5), except a foreign corporation. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel

or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least 6 months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this chapter. Except as provided in ss. 125.28 (2) and 125.31, Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.

(3) Class "B" licenses shall particularly describe the premises for which issued and are not transferable, except as provided in s. 125.04 (12). A Class "B" license is subject to revocation for violation of any of the terms or provisions thereof.

(4) The fee for a Class "B" license shall be determined by the municipal governing body issuing the license but the fee may not exceed \$100 per year.

(5) Class "B" licenses may be issued at any time for a period of 6 months in any calendar year, for which 75 % of the license fee shall be paid. Such licenses are not renewable during the calendar year in which issued.

(6) Class "B" licenses may also be issued to bona fide clubs, state, county or local fair associations or agricultural societies, lodges or societies that have been in existence for at least 6 months before the date of application and posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. The amount of the fee for the license shall be determined by the municipal governing body issuing the license but may not exceed \$10. A license issued to the state fair or to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The state fair or county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. No such person is required to obtain an operator's license in order to engage in retail sales of fermented malt beverages on the grounds of the state fair or other fairs receiving state aid.

NOTE: 1. Section 125.26 restates the substance of parts of s. 66.054 (5) (a), (b) and (d) and (8) (a), (c) and (d).

2. Section 66.054 (5) (b) provides that municipalities "shall have the power, but shall not be required" to issue Class "B" licenses. Subsection (1) provides that municipalities "may" issue Class "B" licenses. No substantive change in the law is intended.

3. "Off" the premises where sold has been substituted for "away from" the premises in the description of what is authorized by a Class "B" license in sub. (1). The purpose of this change is to clearly define what sales are authorized and provide consistency with the description of what is authorized by Class "A" and retail intoxicating liquor licenses.

4. The last sentence of sub. (2) is new. It is based on s. 66.054 (4) (a) and 61 OAG 68 (1972).

5. The cross-reference to s. 125.04 (12) has been added to sub. (3) to clarify that Class "B" licenses may be transferred as provided in that section.

125.27 Class "B" permits. (1) The department shall issue Class "B" permits to clubs that are operated solely for the playing of golf or tennis and are commonly known as country clubs, clubs that are operated solely for the playing of curling and yachting clubs, if the club is not open to the general public and if no Class "B" licenses are issued by the governing body of the municipality in which the club is located. A Class "B" permit authorizes retail sales of fermented malt beverages to be consumed on the premises where sold. Persons holding a Class "B" permit may sell beverages containing less than 0.5 % of alcohol by volume without obtaining a license under s. 66.053 (1).

(2) A club applying for a Class “B” permit under this section shall have occupied the premises on which it is located on the date of filing the application for a period of 6 months prior to that date.

(3) The annual fee for a Class “B” permit is \$10 and shall be paid to the treasurer of the municipality in which the club is located.

(4) Except as otherwise provided in this section, all sections of this chapter relating to Class “B” licenses apply to Class “B” permits issued under this section.

NOTE: 1. Section 125.27 restates the substance of s. 66.054 (23) and part of s. 176.01 (8).

2. The reference in s. 66.054 (23) to the definition of a “club” under s. 176.01 (8) [recodified in s. 125.02 (4)] has been deleted in s. 125.27 as unnecessary. Section 125.02 (4) defines “club” for the purposes of all appearances of the word in ch. 125.

3. The statements in s. 125.27 relating to activities authorized by a Class “B” permit is taken from s. 66.054 (8) (d), relating to Class “B” licenses. Its inclusion is necessary here because separate terms — “license” and “permit” — are used under ch. 125 for authorizations issued by municipalities and the department. The authorization for Class “B” permittees to sell fermented malt beverages for consumption off the premises has been deleted.

4. The reference in s. 176.01 (8) to a “license” previously issued by “a municipality or otherwise” has been replaced in sub. (2) by “license or permit” previously issued by “a municipality or the department”. This change was made to reflect the definitions of “license” and “permit” in ch. 125 and because only municipalities and the department issue licenses and permits. This is not a substantive change in the law.

5. Section 66.054 (23) provides for the issuance of Class “B” licenses (permits under this recodification) by the secretary of revenue to clubs “that are operated solely for the playing of *curling*, golf or tennis, which are *commonly known as country clubs*, and are not open to the general public, and *including yachting clubs*” [emphasis added]. However, curling clubs and yachting clubs are not commonly known as country clubs. The list of clubs eligible for licenses from the department (permits under the recodification) has been reworded in sub. (1) to reflect the common usages of the terms relating to the clubs.

6. The portion of s. 66.054 (23) recodified in sub. (1) requires the secretary of revenue to issue Class “B” licenses (permits under the recodification) only if the municipality issues *no such licenses*. If a municipality issues no Class “B” licenses, there will be no municipal license fee for Class “B” licenses. However, s. 66.054 (23) states that the fee for the Class “B” license (permit under the recodification) issued by the secretary shall be *equal to the fee imposed by the city council, town or village board* for Class “B” licenses.

This apparent contradiction was introduced into the statutes by chapter 184, laws of 1977, which added curling clubs to s. 66.054 (23). Prior to the enactment of chapter 184, laws of 1977, the fee for a Class “B” license issued by the secretary was \$10. In order to resolve the apparent conflict in the statutes, in sub. (3) the \$10 fee has been reinstated.

7. The exception from the 6-month residency requirement in s. 176.01 (8) for a club which was in existence for at least 5 years prior to making application for a Class “B” permit has been deleted in sub. (2).

125.28 Wholesalers’ licenses. (1) **WHOLESALERS.** (a) Every municipal governing body may issue licenses to wholesalers for the sale of fermented malt beverages from premises within the municipality. A wholesaler’s license authorizes sales of fermented

malt beverages only in original packages or containers to retailers or wholesalers, not to be consumed in or about the premises where sold. In the case of a foreign corporation whose wholesale premises is located outside of this state, the wholesaler's license shall be issued by the governing body of the municipality in which some part of the wholesaler's business is conducted in this state. No additional license or permit is required for the solicitation of orders for sale to or by licensed wholesalers.

(b) Wholesalers' licenses may be issued to any person qualified under s. 125.04 (5). Except as provided in sub. (2) or s. 125.31, wholesalers' licenses may not be issued to persons holding a Class "B" license or permit.

(c) Wholesalers' licenses shall particularly describe the premises for which issued and are not transferable, except as provided in s. 125.04 (12). A wholesaler's license is subject to revocation for violation of any of the terms or provisions thereof.

(d) The amount of the license fee shall be determined by the municipal governing body issuing the license but may not exceed \$25 per year or fractional part thereof.

(2) CLASS "B" RETAILERS. (a) Every municipal governing body may issue a special wholesaler's license to any Class "B" licensee for the sale of fermented malt beverages from premises within the municipality. A special wholesaler's license authorizes the sale of fermented malt beverages only in original packages or containers and in quantities of not less than 4.5 gallons at any one time for consumption on the premises.

(b) The amount of the license fee shall be determined by the municipal governing body issuing the license but may not exceed \$25 per year.

NOTE: 1. Section 125.28 restates parts of s. 66.054 (5) (a), (b) and (d), (6) and (6a), relating to the issuance of wholesalers' licenses.

2. Section 66.054 (5) (b) states that municipalities "shall have the power, but shall not be required" to issue wholesalers' licenses. Subsection (1) (a) provides that municipalities "may" issue wholesalers' licenses. No substantive change in the law is intended.

3. In sub. (1) (a), reference to sales to "retailers or wholesalers" has been substituted for reference to sales to "dealers" in the description of what is authorized by a wholesaler's license. This reflects the discontinuance of the definition of a "dealer" and is consistent with the definition of "wholesaler" in s. 125.02 (21). No substantive change in the law is intended.

4. The last sentence of sub. (1) (a) has been amended to clarify that wholesalers need no *additional* license or *permit* to solicit orders.

5. The last sentence of sub. (1) (b) is new. It is based on s. 66.054 (4) (a) and 61 OAG 68 (1972).

6. The cross-reference to s. 125.04 (12) has been added to sub. (1) (c) to clarify that wholesalers' licenses may be transferred as provided in that section.

7. The phrase "per year" was added to sub. (2) (b) to clarify that the \$25 fee limit is an annual limit.

125.29 Brewers. (1) REGISTRATION. Every brewer shall file with the department, in the form prescribed by the department, proof that the brewer is the possessor of a permit issued by the federal government and the permit number assigned to the brewer. The department shall register the permit number in the name of the brewer.

(2) LIMITATION. Except as provided in s. 125.31 (1), no person holding a Class "B" license or permit issued under this chapter may register as a brewer.

(3) ACTIVITIES. A brewer may manufacture, possess and store fermented malt beverages on the brewery premises and transport fermented malt beverages between the brewery premises and any depot or warehouse maintained by the brewer for which the brewer has a wholesaler's license issued under s. 125.28 (1).

NOTE: Section 125.29 restates parts of the substance of s. 66.054 (3) (a) and (5) (a).

1. Section 125.29 clarifies that the permits referred to are issued by the federal government. In general, unless the context otherwise requires, under ch. 125, "permit" means only permits issued by the department under the chapter.

2. Subsection (2) is new. It is based on s. 66.054 (4) (a) and 61 OAG 68 (1972).

125.30 Out-of-state shippers' permits; delivery to wholesalers. (1) The department shall issue out-of-state shippers' permits which authorize the permittee to ship fermented malt beverages only to holders of a wholesaler's license issued under s. 125.28. No person may receive fermented malt beverages in this state which have been directly shipped from outside this state by any person other than the holder of a permit issued under this section. All shipments of fermented malt beverages from outside this state to a wholesaler of fermented malt beverages in this state shall be unloaded in and distributed from the wholesaler's warehouse in this state.

(2) The application for an out-of-state shipper's permit and the permit shall be on forms prescribed by the department which shall contain provisions determined by the department as necessary to effectuate the purposes of ss. 139.01 to 139.25 and shall include a provision that the permittee agrees:

(a) To comply with s. 139.05 relating to filing a bond, filing returns, paying taxes and recordkeeping;

(b) To permit inspections and examinations of the permittee's premises and records by the department and its duly authorized employes, as authorized under s. 139.08 (4); and

(c) To pay the expenses reasonably attributable to such inspections and examinations made within the United States.

(3) Out-of-state shippers' permits may be issued to any person qualified under s. 125.04 (5). Notwithstanding s. 125.04 (5) (a), natural persons obtaining out-of-state shippers' permits are not required to be residents of this state. Notwithstanding s. 125.04 (6), corporations obtaining out-of-state shippers' permits are not required to appoint agents.

(4) Out-of-state shippers' permits shall be issued free of charge.

(5) The department may revoke or suspend an out-of-state shipper's permit for such time as the department determines, if the permittee violates any provision of the application or ss. 139.01 to 139.25.

NOTE: Section 125.30 restates the substance of ss. 66.054 (5) (f) and 139.05 (5).

125.31 Multiple licenses and permits. (1) **BREWERS.** (a) Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may maintain and operate a place on brewery premises and a place on real estate owned by the brewer or a subsidiary or affiliate corporation for the sale of fermented malt beverages for which a Class "B" license is required for each place, but not more than 2 such Class "B" licenses shall be issued to any brewer. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may also own, maintain or operate places for the sale of fermented malt beverages on any state or county fairgrounds located in this state. Any Class "B" license necessary in connection with this paragraph shall be issued to the brewer. Notwithstanding s. 125.33 (1), a brewer may own the furniture, fixtures, fittings, furnishings and equipment on such premises and shall pay any license fee or tax required for the operation of the premises.

(b) A brewer may own, maintain or operate depots and warehouses from which sales of fermented malt beverages, not for consumption in or about the premises where sold, may be made in original packages to retailers and wholesalers. A separate wholesaler's license is required for each depot or warehouse owned, maintained or operated.

(c) A brewer may sell fermented malt beverages in the original packages or containers, not to be consumed on the premises where sold:

1. To retailers and wholesalers, if the brewer obtains a wholesaler's license; or
2. To persons other than licensees and permittees, if the brewer obtains a Class "A" license.

(2) RETAILERS. (a) Not more than 2 Class "A" licenses may be issued to one person. In each application for a Class "A" license, the applicant shall state that application has not been made for more than one other Class "A" license.

(b) Not more than 2 Class "B" licenses may be issued to one person. In each application for a Class "B" license, the applicant shall state that application has not been made for more than one other Class "B" license.

NOTE: 1. Section 125.31 restates the substance of s. 66.054 (4) (b), (c) and (d) and parts of s. 66.054 (7) and (8) (a).

2. In sub. (1) (b) and (c), reference to wholesale sales to "retailers or wholesalers" has been substituted for reference to wholesale sales to "dealers". This reflects the deletion of the definition of "dealer" from s. 125.02, relating to definitions for ch. 125, and is consistent with the definition of "wholesaler" in s. 125.02 (21). In sub. (1) (c), reference to retail sales to "persons other than persons holding a license or permit under this chapter" has been substituted for reference to retail sales to "persons other than dealers". This is consistent with the definition of "retailer" in s. 125.02 (19).

3. In sub. (1) (a) and (b), the authorization for a brewer to "own, maintain or operate" places for the sale of fermented malt beverages on fairgrounds and depots and warehouses has been substituted for authorization to "own, maintain and operate" places on fairgrounds and "own and operate" depots and warehouses.

125.32 General restrictions and requirements. (1) MANAGERS' LICENSES; CLASS "B" PREMISES. (a) If a municipal governing body elects to issue managers' licenses under s. 125.18, no person may manage premises operating under a Class "B" license issued by that municipality, unless the person is the licensee, an agent of a corporation appointed as required by s. 125.04 (6) or the holder of a manager's license. A person manages Class "B" premises if that person has responsibility or authority for:

1. Personnel management of all employees, whether or not the person is authorized to sign employment contracts;
2. The terms of contracts for the purchase or sale of goods or services, whether or not the person is authorized to sign the contracts; or
3. The daily operations of the Class "B" premises.

(b) The municipal governing body may, by ordinance, define factors in addition to those listed in par. (a) which constitute management of Class "B" premises.

(2) OPERATORS' LICENSES; CLASS "A" OR CLASS "B" PREMISES. No premises operated under a Class "A" or Class "B" license or permit may be open for business unless there is upon the premises the licensee, the agent named in the license if the licensee is a corporation, the agent named in a Class "B" permit or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. For the purpose of this subsection, any person holding a manager's license under s. 125.18 or any member of the licensee's immediate family 18 years of age or older shall be considered the holder of an operator's license. No person, including members of the licensee's immediate family under the age of 18 years, other than the licensee or agent may serve fermented malt beverages in any place operated under a Class "A" or Class "B" license or permit unless he or she has an operator's license or is under the immediate

supervision of the licensee or agent or a person holding an operator's license, who is on the premises at the time of the service.

(3) CLOSING HOURS. (a) In any county having a population of less than 500,000, except in a 1st class city which is located in more than one county, no premises for which a Class "B" license or permit is issued may remain open between the hours of 1 a.m. and 8 a.m., except as provided in this subsection. During that portion of each year for which the standard time is advanced under s. 175.095, the closing hours shall be between 2 a.m. and 8 a.m. and on January 1 the closing hours shall be between 3 a.m. and 8 a.m. Between 12 midnight and 8 a.m. no person may sell fermented malt beverages on Class "B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises.

(b) Class "A" premises may remain open for the conduct of their regular business but may not sell fermented malt beverages between 12 midnight and 8 a.m.

(c) Hotels and restaurants whose principal business is the furnishing of food and lodging to patrons, bowling alleys and golf courses may remain open for the conduct of their regular business but may not sell fermented malt beverages during the hours specified in par. (a).

(d) A municipality may, by ordinance, impose more restrictive hours than are provided in this subsection.

(4) LIMITATIONS ON OTHER BUSINESS; CLASS "B" PREMISES. (a) No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway which serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

1. A hotel.
2. A restaurant which is not a part of or located in any mercantile establishment.
3. A combination grocery store and tavern.
4. A combination sporting goods store and tavern in towns, villages and 4th class cities.
5. A combination novelty store and tavern.
6. A bowling alley or recreation premises.
7. A club, society or lodge that has been in existence for 6 months or more prior to the date of filing application for the Class "B" license or permit.

(b) 1. In this paragraph "market" means the retail sale of secondhand or antique merchandise or art.

2. Notwithstanding par. (a), a market or an auction may be conducted on premises for which a Class "B" license has been granted, if the number of days on which a market is held and the number of days on which an auction is held on the premises do not exceed a combined total of 4 days each month. A day on which both an auction and a market are held shall be counted as 2 days for the purpose of computing the total number of days on which auctions or markets are held.

3. No Class "B" license may be granted for premises on which an auction or the retail sale of secondhand or antique merchandise or art, other than sales in the ordinary course of business authorized under par. (a), has been conducted within one year before the date of filing the application. The subdivision does not apply if the auction or market conducted on the licensed premises was authorized under subd. 2.

4. No person may consume, sell, give away or furnish alcohol beverages on Class "B" licensed premises if an auction or market authorized under subd. 2 is being conducted except in a room in which no activity related to the auction or market is being conducted.

(5) SIGNS NEAR TAPS AND BRANDS ON TAP; CLASS "B" PREMISES. (a) Every Class "B" licensee or permittee selling or offering for sale draught fermented malt beverages shall display a sign on or near each tap or faucet disclosing the brand of fermented malt beverage drawn from the tap or faucet and the name of its brewer. The sign shall be visible to patrons from a distance of at least 10 feet. No Class "B" licensee or permittee may substitute any other brand of fermented malt beverage in place of the brand designated on the sign.

(b) Any licensee or permittee who violates par. (a) shall be fined not more than \$15.

(6) LIMITATIONS ON BEVERAGES ON WHOLESALE AND RETAIL PREMISES. (a) No person, including a fermented malt beverage licensee or permittee or an agent, servant or employe of such licensees or permittees, may possess on the premises covered by a retail or wholesale fermented malt beverages license or permit any alcohol beverages not authorized by law for sale on the premises.

(b) No fermented malt beverage licensee or permittee may keep any beverages of an alcoholic content prohibited by federal law on the premises covered by the license or permit.

(7) LABELS. (a) No fermented malt beverages may be sold, offered or exposed for sale, kept in possession with intent to sell, or served on any premises for which a license or permit for the sale of fermented malt beverages has been issued unless each barrel, keg, cask, bottle or other container bears a label or other identification with the name and address of the brewer. The possession of any fermented malt beverages which are not so identified on any premises for which a license or permit for the sale of fermented malt beverages has been issued is prima facie evidence that the fermented malt beverages are possessed with intent to sell, offer for sale, display for sale or give away.

(b) No container containing fermented malt beverages may be sold, offered or exposed for sale, kept in possession with intent to sell or served on any premises for which a license or permit for the sale of fermented malt beverages has been issued unless there is a label or other identification on the container bearing a statement of its contents in fluid ounces in plain legible type.

NOTE: 1. Subsection (1) restates the substance of s. 66.054 (10m) (c) and (d).

2. Subsection (2) restates the substance of portions of s. 66.054 (11) (a) and (b).

The phrase "serving (or serve) any fermented malt beverages" has been substituted for the phrase "serving (or serve) as a waiter, or in any other manner, any fermented malt beverages". No substantive change in the law is intended.

The requirement that the licensee or an operator be present "at all times" is recodified in sub. (2) to apply only when the premises are "open for business". This interpretation of the requirement appears to be consistent with the general purpose of the requirement that the licensee or operator be responsible for the acts of persons *servicing* fermented malt beverages.

The phrase "18 years of age or older" has been added to clarify that members of the immediate family of the licensee or permittee must be 18 or older to be considered to hold an operator's license.

Under current practice, in those instances where the licensee or permittee is an entity (such as a corporation or country club), the agent named does not need an operator's license. Subsection (2) has been recodified to specifically so

state and to clarify that members of the immediate family of an agent do not have the same status as members of a licensee's immediate family.

3. Subsection (3) restates the substance of s. 66.054 (9) (intro.) and (a) and (10).

The statement in s. 66.054 (10) (a) that fermented malt beverages may not be sold to minors between 1 a.m. and 8 a.m. has been deleted as unnecessary. Fermented malt beverages may not be sold to anyone during these closing hours.

The authorization for a municipality to establish closing hours for Class "A" and Class "B" premises *by resolution* has been deleted from sub. (3) (d).

4. Subsection (4) restates the substance of a portion of s. 66.054 (8) (a). [An amendment provides an exception for premises connected by a secondary doorway which serves as a safety exit.]

5. Subsection (5) restates the substance of s. 66.054 (8) (e).

The specific reference in s. 66.054 (8) (e) to selling fermented malt beverages for consumption "on or off the premises" has been deleted in sub. (5) (a), as unnecessary. Class "B" licenses and permits authorize sales for consumption on or off the premises. [See ss. 66.054 (8) (d), 125.26 (1) and 125.27 (1).]

Under s. 66.054 (8) (e), the tap sign must contain the name of the "manufacturer" of the fermented malt beverages. "Brewer" has been substituted for "manufacturer" in par. (a). This substitution was made to provide consistency with the definitions contained in s. 125.02.

Section 66.054 (8) (e) requires signs near taps to be "visible to patrons for a distance of at least 10 feet so that every patron may be informed of the brand of fermented malt beverages on tap". Paragraph (a) deletes the phrase "so that every patron may be informed of the brand of fermented malt beverages on tap", because it has no direct substantive effect.

The statement in s. 66.054 (8) (e) that s. 66.054 (15), the general penalty provision, does not apply to violations of the paragraph has been deleted in par. (b), as unnecessary. The general penalty provisions of s. 66.054 (15) [recodified in s. 125.11 (1)] do not apply to any provisions of the law for which a specific penalty is provided.

6. Subsection (6) restates the substance of s. 66.054 (8) (f) and (9) (intro.) and (d).

The phrase "on the premises" has been substituted for the phrase "in or about the premises" in par. (b) for clarity.

7. Subsection (7) restates s. 66.054 (3), (9) (intro.) and (e) and (15) (b).

References to "bartering" and "exchanging" fermented malt beverages are deleted in sub. (7) because these activities are included in the definition of "sell" under s. 125.02 (20).

The prohibition stated in the first sentence of s. 66.054 (9) (e) is included in the prohibition set forth in s. 66.054 (3) (b). Both provisions are recodified in par. (a). The 2nd sentence of s. 66.054 (9) (e) is recodified in sub. (7) (b).

References in s. 66.054 (3) and (15) to placing registration numbers on fermented malt beverages containers were deleted to reflect current practice. Such numbers are no longer placed on containers.

Reference to "other identification" was added to references to labels in par. (a) to reflect current practice.

"Container" was substituted for "bottle" in par. (b).

125.33 Restrictions on dealings between brewers, wholesalers and retailers. (1) FURNISHING THINGS OF VALUE. (a) Except as provided in this section, s. 125.28 (2) or 125.31 (1), no brewer or wholesaler may furnish, give, lend, lease or sell any furniture, fixtures, fittings, equipment, money or other thing of value to any Class "B" licensee or permittee, or to any person for the use, benefit or relief of any Class "B" licensee or permittee, or guarantee the repayment of any loan or the fulfillment of any financial obligation of any Class "B" licensee or permittee. Such actions may not be taken by the brewer or wholesaler directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner thereof.

(b) No brewer or wholesaler may enter into any written agreement, and no written or oral agreement is valid, whether or not incorporated in any conditional sales contract, security agreement, bill of sale, lease, land contract, mortgage, deed or other instrument, by which any Class "B" licensee or permittee is required to purchase the fermented malt beverages of any brewer to the exclusion, in whole or part, of those manufactured by other brewers. Such contracts may not be entered into by the brewer or wholesaler, directly or indirectly, or through a subsidiary or an affiliate corporation, or by any officer, director, stockholder or partner thereof.

(c) Notwithstanding the prohibitions in this subsection, brewers and wholesalers may:

1. Furnish, give, lend or rent outside and inside signs to Class "B" licensees and permittees if the aggregate value of the signs furnished, given, lent or rented by any brewer or wholesaler to any Class "B" licensee or permittee does not exceed \$125 exclusive of erection, installation and repair charges.

2. Furnish miscellaneous advertising matter and other items if the aggregate value of the items furnished to any one Class "B" licensee or permittee does not exceed \$25 in any one calendar year.

3. Furnish or maintain for Class "B" licensees or permittees equipment designed and intended to preserve and maintain the sanitary dispensing of fermented malt beverages, if the expense incurred by the brewer or wholesaler does not exceed \$25 per tap per calendar year. No part of any such expense may be paid in cash to any Class "B" licensee or permittee.

4. Sell dispensing equipment such as direct draw boxes, novelty boxes, coil boxes, beer storage boxes or tapping equipment, none of which may include bar additions, to Class "B" licensees and permittees for cash or on credit for not more than 2 years. Credit sales shall be evidenced by a written contract stating the terms, conditions and monthly payments. Within 10 days after the execution of the contract, the seller shall file a copy of the contract with the register of deeds for the county in which the equipment is installed.

5. Sell consumable merchandise intended for resale, including the sale or loan of containers thereof, to Class "B" licensees and permittees in the regular course of business.

6. Purchase advertising and other services and rights for a fair consideration from any corporate Class "B" licensee or permittee who is a member of a regularly established athletic league and whose principal business is the ownership, maintenance and operation of a professional athletic team playing a regular schedule of games and whose principal source of income is derived from the sale of tickets to games played by such teams.

7. Contribute money or other things of value to or for the benefit of a nonprofit corporation, exempt under section 501 (c) (3) of the internal revenue code of 1954, which is conducting festivals of limited duration in a 1st class city if the festivals are sponsored and endorsed in whole or part by a municipal corporation.

8. Brewers and wholesalers may lease or lend such furniture, fixtures, fittings and equipment to Class "B" licensees and permittees who are in possession or to any person in possession of the premises where the furniture, fixtures, fittings and equipment are installed prior to May 24, 1941. Any brewer or wholesaler who repossesses any furniture,

fixtures, fittings or equipment leased, lent or sold to any Class "B" licensee or permittee may sell the furniture, fixtures, fittings or equipment to any Class "B" licensee or permittee, for cash on delivery only, and deliver a bill of sale of the same. Any application for a Class "B" license or permit after May 24, 1941, shall have appended thereto and made a part thereof an affidavit sworn and acknowledged under oath by the applicant, setting forth the ownership of the fixtures in or attached to the premises, or any part thereof, and if the fixtures are not owned by the applicant, the manner, terms and conditions under which the fixtures are held.

(d) The restrictions contained in this subsection do not apply to real estate owned in whole or part on May 24, 1941, by any brewer or wholesaler, directly or indirectly, or through or by a subsidiary or affiliate corporation, or by any officer, director, stockholder, partner or trustee for any of the foregoing, or upon which any of the foregoing held a valid lien on May 24, 1941, or to any real estate owned in whole or part by any of the foregoing upon which there is or may be a hotel of 100 or more rooms.

(e) Nothing in this subsection affects the extension of usual and customary commercial credits for products of the fermented malt beverages industry actually sold and delivered.

(f) Any licensee or permittee who is a party to any violation of this subsection or who receives the benefits thereof shall be guilty of the violation.

(2) **VOLUME DISCOUNTS TO RETAILERS.** Wholesalers of fermented malt beverages shall charge the same price to all retailers making purchases in similar quantities, regardless of whether the retailer is a Class "A" or Class "B" licensee or permittee. Any discount offered on fermented malt beverages shall be delivered to the retailer in a single transaction and single delivery, and on a single invoice.

(3) **RETAIL PURCHASE CREDIT RESTRICTIONS.** (a) *Restrictions on sales.* No fermented malt beverages retail licensee or permittee may:

1. Receive, purchase or acquire fermented malt beverages from any licensee except for cash or credit for a period of not more than 15 days.

2. Receive any fermented malt beverages on consignment or on any basis other than a bona fide sale.

3. Receive, purchase or acquire fermented malt beverages from any licensee or permittee if at the time of the receipt, purchase or acquisition he or she is indebted to any licensee or permittee for fermented malt beverages received, purchased, acquired or delivered more than 15 days earlier.

(b) *Restrictions on issuance of licenses and permits.* No Class "A" or Class "B" license or permit may be issued to a person having an indebtedness for fermented malt beverages outstanding for more than 15 days. In each application for a Class "A" or Class "B" license or permit, the applicant shall state whether he or she has indebtedness for fermented malt beverages to any licensee or permittee which has been outstanding for more than 15 days.

(c) *Wholesalers holding retail licenses and permits.* For purposes of this subsection, a person holding both a fermented malt beverage wholesale license and a fermented malt beverage retail license is deemed a fermented malt beverage retailer.

(d) *Penalties.* A retail licensee or permittee who violates this subsection is subject to the penalties under s. 125.11 (1) except that he or she may not be imprisoned. No brewer or wholesaler may be subjected to any penalty as the result of the sale of fermented malt beverages to a retail licensee or permittee when purchased by the retailer in violation of this subsection.

NOTE: 1. Subsection (1) restates the substance of s. 66.054 (4) (a).

The phrase “except as provided in this section, s. 125.28 (2) or 125.31 (1)” has been added to the first sentence of par. (a) in reference to exceptions to the general prohibition of par. (a) provided elsewhere.

References to May 24, 1941, have been deleted in sub. (1) (b) and (c) 1 and 8 because they are obsolete transitional provisions.

The reference to a \$1 filing fee has been deleted from sub. (1) (c) 4 because s. 59.57 establishes the fees for filing with registers of deeds.

See proposed ss. 125.26 (2), 125.28 (1) (b) and 125.29 (2) of this bill for additional statements of prohibitions against issuing Class “B” licenses to brewers and wholesalers and vice versa.

2. Subsection (2) restates the substance of s. 66.054 (8a) (i).

3. Subsection (3) restates the substance of s. 66.054 (8a) (a), (b), (c) and (f), and s. 66.054 (8a) (d), (g) and (h) as they apply to s. 66.054 (8a) (a), (b), (c) and (f).

Section 66.054 (8a) (h) provides that retailers who violate the credit restrictions are subject to having their licenses revoked or suspended under s. 66.054 (17), relating to revocations and suspensions by courts upon complaint of the department. This provision has been deleted in par. (d) as unnecessary. See s. 125.12 (2), (4) and (5) which provides for license revocation or suspension for *any violation* of the chapter.

Reference to a retail “permit” is not included in sub. (3) (c) because only Class “B” licensees, not Class “B” permittees, would be issued a wholesaler’s license.

SUBCHAPTER III INTOXICATING LIQUOR

125.51 Retail licenses and permits. (1) MUNICIPAL AUTHORITY TO ISSUE. (a) Every municipal governing body may grant and issue “Class A” and “Class B” licenses for retail sales of intoxicating liquor from premises within the municipality to persons entitled to a license under this chapter as the issuing municipal governing body deems proper.

(b) No member of the municipal governing body may sell or offer to sell to any person holding or applying for a license any bond, material, product or thing which may be used by the licensee in carrying on the business subject to licensure.

(c) The municipal governing body, or the duly authorized committee of a city council, shall meet not later than May 15 of each year, and be in session from day to day thereafter so long as may be necessary, for the purpose of acting upon license applications filed with it on or before April 15. The governing body or committee shall grant, issue or deny each application not later than June 15 for the ensuing license year. Licenses may be granted for issuance at a later date when the applicant has complied with all requirements for the issuance of the license. The governing body or committee may accept and act upon any application filed at any other time. As soon as a license is granted, a copy of the application for the license shall be forwarded to the department. The governing body or committee may not deny an application for renewal of an existing license unless a statement of the reason for the denial is included in its clerk’s minutes.

(2) RETAIL “CLASS A” LICENSES. (a) A “Class A” license authorizes the retail sale of intoxicating liquor for consumption off the premises where sold and in original packages and containers.

(b) Except as provided under s. 125.69, “Class A” licenses may be issued to any person qualified under s. 125.04 (5), except a foreign corporation or a person acting as an agent for or in the employ of another.

(c) "Class A" licenses shall particularly describe the premises for which issued and are not transferable, except as provided in s. 125.04 (12).

(d) The annual fee for a "Class A" license shall be determined by the municipal governing body and shall be the same for all "Class A" licenses, except that the minimum fee is \$50 and the maximum fee is \$500.

(3) RETAIL "CLASS B" LICENSES. (a) A "Class B" license authorizes the retail sale of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container. In addition, wine may be sold in the original package or container in any quantity to be consumed off the premises where sold. This paragraph does not apply in municipalities in which the governing body elects to come under par. (b).

(b) In all municipalities electing by ordinance to come under this paragraph, a retail "Class B" license authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold and also authorizes the sale of intoxicating liquor in the original package or container, in multiples not to exceed 4 liters at any one time, and to be consumed off the premises where sold. Wine, however, may be sold for consumption off the premises in the original package or otherwise in any quantity.

(c) Except as provided under s. 125.69, a "Class B" license may be issued to any person qualified under s. 125.04 (5), except a foreign corporation or a person acting as an agent for or in the employ of another.

(d) "Class B" licenses shall particularly describe the premises for which issued and are not transferable, except as provided in s. 125.04 (12).

(e) The annual fee for a "Class B" license shall be determined by the municipal governing body and shall be the same for all "Class B" licenses, except that the minimum fee shall be \$50 and the maximum fee shall be \$500. The minimum fee shall not apply to licenses issued to bona fide clubs and lodges situated and incorporated in the state for at least 6 years.

(f) A "Class B" license may be issued only to a holder of a retail Class "B" license to sell fermented malt beverages.

(4) QUOTAS ON "CLASS B" LICENSES. (a) In this subsection:

1. "License" means a retail "Class B" license.

2. "Population" means the number of inhabitants determined by the last decennial federal census, or, in the case of newly incorporated cities or villages, determined under s. 66.013 (2) (b), less, in either case, inmates of charitable, mental and penal institutions in the municipality.

3. "Quota" means the number of licenses which a municipality may grant or issue.

(b) Except as provided in pars. (c) and (d), the quota of each municipality is the number of licenses issued in good faith by the municipality under s. 176.05 (21) (h), 1975 stats., plus whichever of the following is the largest:

1. One license per 500 population or fraction thereof.

2. The number of licenses lawfully issued and in force within the municipality on August 27, 1939.

3. The number of licenses lawfully issued and in force within the municipality in the year of the decennial federal census immediately prior to the most recent decennial federal census.

4. In the case of a village or city incorporated since August 27, 1939, one license per 500 population or fraction thereof at the time of incorporation.

5. In the case of any municipality incorporated or organized since August 27, 1939, the number of licenses lawfully issued and in force in the territory within the municipality at the time of incorporation or organization.

(c) If territory containing premises covered by a license is annexed to the municipality and if the municipality's quota would not otherwise allow licenses for the premises, the quota shall be increased to include a license for each premises in the annexed territory.

(d) Detachment of territory shall decrease the quota of the remainder of the municipality by the number of premises covered by licenses existing in the detached territory, except that detachment shall not decrease the quota of the remainder to less than one license per 500 persons or less than one license.

(e) By July 1 of the year in which a federal decennial census is taken, the department of health and social services shall certify to each municipality and the department of revenue the number of persons who are residents of charitable, mental and penal institutions within the municipality.

(f) Notwithstanding the quota of a town, licenses issued by the town under s. 176.05 (21) (k), 1979 stats., remain valid and may be renewed by the town board, but the town board may not issue any new "Class B" licenses until the total number of licenses is less than the quota.

(g) Notwithstanding the quota of a municipality, its governing body may, by a three-fourths vote of its members, issue a license limited to the sale of wine for consumption only on the premises to any person engaged in preserving a place of historic significance built during the state's first 5 years of statehood and operating the place as a restaurant.

(h) Notwithstanding the quota of a municipality, its governing body may, by a three-fourths vote of its members, issue a license to any restaurant existing on August 7, 1977, with a museum having permanent exhibition space open to the public at least 3 times the area of the restaurant.

(i) Notwithstanding the quota of the municipality, licenses issued under s. 176.05 (21) (h), 1979 stats., remain valid and may be renewed by the municipality.

(5) RETAIL "CLASS B" PERMITS. (a) *Sports clubs*. 1. The department shall issue "Class B" permits to clubs which are operated solely for the playing of golf or tennis and are commonly known as country clubs, to clubs which are operated solely for curling and to yachting clubs. The permits may be issued by the department without regard to any local option exercised under s. 125.05 and without regard to any quota under sub. (4). The holder of a "Class B" permit may sell intoxicating liquor for consumption by the glass and not in the original package or container on the premises covered by the permit.

2. Except as provided in this paragraph, all sections of this chapter applying to retail "Class B" licenses apply to "Class B" permits issued under this paragraph.

3. "Class B" permits may be issued only to a club which has occupied the premises upon which it is located for a period of at least 6 months prior to the date of application.

4. Any club which is organized to engage in sports similar to curling, golf, tennis or yachting and which held a license from July 1, 1950, to June 30, 1951, may annually be issued a permit as long as it is continuously operated under substantially the same circumstances under which it operated during the year beginning July 1, 1950.

5. The annual fee for the permit is \$50 and shall be paid to the treasurer of the municipality in which the premises is located.

(b) *Public facilities and airports*. 1. In this paragraph:

a. "Arena" means a public building with a capacity of 4,000 or more persons used principally for the conduct of sports events.

b. "Coliseum" means a public multipurpose facility designed for activities of the public, which may include but are not limited to sports events, trade shows, conventions, seminars, concerts, banquets and fairs.

c. "Concessionaire" means a person designated by resolution of the governing body of a county or municipality owning an airport or public facility to operate premises in the airport or public facility.

d. "Public facility" means an arena, coliseum, related exposition facilities or center for the performing or visual arts.

e. "Related exposition facility" means buildings constructed on the same grounds as a coliseum and used for the same or ancillary functions.

2. The department shall issue a "Class B" permit to a concessionaire conducting business in an operating airport or public facility, if the county or municipality which owns the airport or public facility has, by resolution of its governing body, annually applied to the department for the permit. The permit authorizes the sale of intoxicating liquor for consumption by the glass and not in the original package or container on the premises.

3. Except as provided in this paragraph, all sections of this chapter relating to "Class B" licenses apply to "Class B" permits issued under this paragraph.

4. The department may not issue a permit under this paragraph to any county or municipality or officer or employe thereof.

5. The fee for the permit shall be the same as the fee charged for a "Class B" license issued by the municipality in which the airport or public facility is located. The fee shall be paid to the department, and the department shall transmit the fee to the municipality within which the airport or public facility is located.

(6) MULTIPLE LICENSES. Not more than 2 "Class A" or "Class B" licenses may be issued in this state to any one person, except in the case of hotels or clubs. In each application for a "Class A" or "Class B" license, the applicant shall state that application has not been made for more than one other "Class A" or "Class B" license.

(7) SALES IN NAME OF LICENSEE OR PERMITTEE. Every holder of a retail license or permit for the sale of intoxicating liquor shall purchase, advertise and sell intoxicating liquor in the holder's name and under the holder's license or permit only.

(8) CONNECTING PREMISES. Except in the case of hotels, a "Class A" intoxicating liquor license and a "Class B" intoxicating liquor or Class "B" fermented malt beverages license or permit may not be issued for the same premises or for connecting premises. Except for hotels, if either class of license or permit is issued for the same or connecting premises already covered by the other class of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.

(9) LICENSES FOR LESS THAN ONE YEAR. (a) A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions thereof remaining until the following June 30.

(b) Licenses valid for 6 months may be issued at any time. The fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued.

NOTE: 1. Section 125.51 (1) restates the substance of s. 176.05 (1) and (8).

Specific authorization has been added to par. (c) to allow municipalities to grant licenses for issuance at a later date when the applicant has complied with all the requirements for the issuance of the license (the word "grant" has been added to par. (a) to reflect this addition).

2. Section 125.51 (2) restates portions of s. 176.05 (1a) (a) and (am), (2) (a), (3) and (4).

Section 125.51 (3) restates the substance of portions of ss. 176.05 (2) (a) and (b), (3), (4) and (10) (b) and 176.17 (1).

Subsections (2) (c) and (3) (d) have been added to provide consistency with the provisions of the draft relating to fermented malt beverages. The provision relating to the transfer of licenses is not a substantive change in the law because its requirements are contained in s. 176.05 (14) [recodified in s. 125.04 (12)]. The provisions relating to describing the premises are new. Current law specifically imposes this requirement for fermented malt beverages licenses [s. 66.054 (4) (d)], but not intoxicating liquor licenses. However, it is common practice to particularly describe the premises in all licenses and the premises must be described in applications for any alcohol beverage license. [See s. 125.04 (3).]

The statement that the minimum fee shall not apply to "Class A" licenses issued to certain clubs has been deleted from sub. (2) (d) because clubs obtain "Class B", not "Class A" licenses.

2m. The cross-reference to s. 125.69 in subs. (2) (b) and (3) (c) is new. The purpose of this addition is to add a reference to restrictions in other sections of this chapter relating to the issuance of licenses.

3. Section 125.51 (4) restates the substance of s. 176.05 (21) and (22). The substance of s. 176.05 (21) (e) is merged within s. 125.51 (4) (b).

Subsection (4) (d) incorporates the interpretation of s. 176.05 (21) (d) suggested in 53 OAG 21 (1964) that upon the detachment of territory, a municipality's quota shall be decreased by the number of licensed premises existing in the detached territory subject to the limits set forth in s. 176.05 (21) (d).

The quota exceptions in s. 176.05 (22), relating to persons entering the armed forces to serve in World War II or pursuant to P.L. 87-117, s. 176.05 (21) (e) 5, relating to the town of Menominee, and s. 176.05 (21) (g), relating to licenses issued prior to July 1, 1960, on the basis of preliminary census figures, have been deleted as obsolete.

"Grant" has been added to the definition of "quota" in sub. (4) (a) 3 to provide consistency with the change described in NOTE 1 relating to granting of licenses prior to their issuance.

4. Section 125.51 (5) (a) restates the substance of s. 176.05 (4) (a) and a portion of s. 176.01 (8).

All references to "Class A" permits (and, thus, the authorization for such permits) have been deleted. Clubs are issued "Class B", not "Class A" permits.

Section 176.05 (4a) provides for the issuance of licenses (permits under the recodification) to clubs "that are operated solely for the playing of curling, golf or tennis, which are commonly known as country clubs, and including yachting clubs". However, curling and yachting clubs are not commonly known as country clubs. The list of clubs has been reworded in sub. (5) (a) 1 to reflect the common usages of the terms relating to clubs.

The exception from the 6-month residency requirement in par. (a) 5 for a club which was in existence for at least 5 years prior to making an application for a "Class B" permit has been deleted as obsolete.

A provision has been added to par. (a) 1 to specify that "Class B" permits issued to clubs authorize sales for consumption by the glass on the premises only.

5. Section 125.51 (5) (b) restates the substance of s. 176.05 (4b).

A provision has been added to par. (b) 2 to specify that "Class B" permits issued to public facilities and airports authorize sales for consumption by the glass on the premises only.

The requirement that if the concessionaire is a corporation the permit shall be issued only to a designated officer or employe of the corporation has been deleted. Under s. 125.04 (6), corporations obtaining permits appoint agents. This change provides consistent treatment for these "Class B" permits and other licenses and permits issued to corporations under the chapter.

The statement that the license year shall commence on July 1 is not continued in par. (b). The substance of that requirement is contained in s. 125.04 (11).

6. Subsection (6) restates the substance of s. 176.05 (3).

7. Subsection (7) restates the substance of s. 176.05 (1a) (c).

8. Subsection (8) restates the substance of portions of s. 176.05 (3).

References to "Class A" permits have been deleted to correspond to the deletion of such permits in sub. (5) (a).

9. Subsection (9) restates the substance of s. 176.05 (6).

125.52 Manufacturers' and rectifiers' permits. (1) **AUTHORIZED ACTIVITIES.** The department shall issue manufacturers' and rectifiers' permits which authorize the manufacture or rectification, respectively, of intoxicating liquor on the premises covered by the permit. A person holding a manufacturer's or rectifier's permit may manufacture, bottle or wholesale wine, pursuant to the terms of the permit, without procuring a winery permit. A manufacturer's or rectifier's permit entitles the permittee to sell intoxicating liquor in quantities of not less than 4 liters at any one time from the premises described in the permit. Holders of rectifiers' permits may sell intoxicating liquor rectified by the permittee to retailers without any other permit. No sales may be made for consumption on the premises of the permittee. Possession of a permit under this section does not authorize the permittee to sell tax-free intoxicating liquor and wines brought into this state under s. 139.03 (5).

(2) **LIMITED MANUFACTURER'S PERMIT.** The department shall issue a limited manufacturer's permit which authorizes the use or sale of the intoxicating liquor produced only if it is rendered unfit for use as a beverage and is used or sold for use as fuel. The department shall notify the department of natural resources of the name and address of any person to whom a limited manufacturer's permit is issued.

(3) **PERSONS ELIGIBLE.** Except as provided under s. 125.69, a manufacturer's or rectifier's permit may be issued to any person qualified under s. 125.04 (5), except a foreign corporation or a person acting as an agent for or in the employ of another.

(4) **TERM OF PERMIT.** All permits issued under this section shall expire on July 1 of each year.

(5) **FEEs.** The annual fees for a manufacturer's or rectifier's permit issued under sub. (1) is \$750. The annual fee for a limited manufacturer's permit issued under sub. (2) is \$10.

(6) **SALES AREA.** No rectifier may sell any intoxicating liquor before filing with the department a written statement that the permittee is a distributor of a particular brand in this state, or an area of this state, and that the sales of that brand by the permittee and anyone purchasing from the permittee will be limited to the area specified. The rectifier shall inform the department of any change in the area within 7 days of the effective date of the change.

(7) **MULTIPLE PERMITS.** Not more than 2 manufacturers' or 2 rectifiers' permits may be issued to any one person. In each application for a manufacturer's or rectifier's permit, the applicant shall state that application has not been made for more than one other manufacturer's or rectifier's permit.

NOTE: 1. Recodified s. 125.52 incorporates provisions of ss. 176.01 (9) and (10), 176.05 (1a) (intro.), (a), (am) and (b), (1b), (1c), (1f), (1m) and (3), and 176.17 (1), relating to manufacturers' and rectifiers' permits.

2. That part of s. 176.05 (1a) (b), relating to applying ss. 176.41, 176.62 and 176.70 to the requirement that the department of revenue be notified of the area within which a particular brand will be sold, is not continued. Sections 176.51 and 176.62 are the general penalty and confiscation sections and their counterparts in the recodified law would automatically apply to any violations. Section 176.70 relates to permits to sell for future delivery and its scope is restricted to the permit requirement. It does not appear to apply to any other violations of law, including any revocation of such licenses for violation of the sales area law.

3. The requirement in s. 176.05 (1a) that license fees be deposited in the state treasury and credited to the general fund is not continued. Sections 20.906 (1) and 25.20, Wis. stats., already ensure that result.

4. The limit on the amount of intoxicating liquor that manufacturers and rectifiers may sell at wholesale in sub. (1) has been changed from one wine gallon to its metric equivalent of 4 liters.

5. Section 176.05 (1c) authorizes manufacturers, rectifiers and wholesalers to sell intoxicating liquor "at wholesale" in quantities of not less than one gallon (4 liters). In sub. (1), the words "at wholesale" have been deleted from this authorization. This deletion was made to clarify that, in the case of manufacturers and rectifiers, the sales contemplated are *not* sales to retailers (i.e., activities commonly engaged in by wholesalers). In other words, the purpose of the deletion is to clarify the separation of the 3 levels of the intoxicating liquor industry.

This interpretation is consistent with other provisions of the law such as s. 125.55, which authorizes *combination* permits for rectifiers and wholesalers and prohibits combination manufacturers' and rectifiers' permits; s. 125.52 (3) which prohibits manufacturers' permits from being issued to wholesalers; and s. 125.54 (2), which prohibits the issuance of wholesalers' permits to manufacturers.

6. Section 176.01 (10) authorizes rectifiers to "wholesale" intoxicating liquor *rectified by the rectifier* without any other license (permit).

In this case, unlike the case described in NOTE 6, the authorization appears to be intended for sales *to retailers* and the authorization has been reworded in sub. (1) to specifically so state. This is consistent with proposed s. 125.55, which provides combination rectifier and wholesaler permits for rectifiers who wholesale products other than those they have rectified.

7. The authorization for manufacturers to wholesale intoxicating liquor manufactured on the premises covered by the permit if they were doing so prior to July 5, 1945, [s. 176.01 (9)] has been deleted as obsolete.

8. The authorization for manufacturers and rectifiers to manufacture and rectify wine [s. 176.05 (1f)] has been incorporated into sub (1), relating to what is authorized by the permits. The reference to rectifying wine has been deleted because wine is not rectified. Manufacturers and rectifiers may only manufacture, bottle or wholesale wine "pursuant to the terms of their permit". Thus, for instance, rectifiers could bottle, but not manufacture wine.

9. The cross-reference to s. 125.69 in sub. (3) is new. The purpose of this addition is to add a reference to restrictions in other sections of this chapter relating to the issuance of permits.

10. Manufacturers have been deleted from sub. (6), which recodifies s. 176.05 (1a) (b). Rectifiers and wholesalers [see s. 125.54 (5)] distribute alcohol beverages.

125.53 Winery permit. (1) The department shall issue only to a manufacturing winery in this state a winery permit authorizing the manufacture and bottling of wine on the premises covered by the permit for sale at wholesale to other licensees or permittees. A permittee under this section may offer taste samples of wine manufactured on the premises to adults on the premises. If a "Class A" liquor license has also been issued to the winery, taste samples may be offered only in areas or rooms not included as part of the "Class A" premises, but taste samples may be offered in an area or room adjoining or connected with the "Class A" premises. No taste samples may be offered if a "Class A" license has been issued for the entire premises.

(2) Winery permits may be issued to any person except a foreign corporation or a person acting as an agent for or in the employ of another.

(3) The annual fee for a winery permit is \$100.

NOTE: 1. Section 125.53 restates the substance of s. 175.05 (1f) and s. 176.05 (1b) and (3) as it applies to winery permits. The last sentence of s. 176.05 (1f) is recodified in s. 125.52 (1).

2. The first sentence of sub. (1) has been changed from current law to provide that winery permits may only be issued to manufacturing Wisconsin wineries.

3. The requirement in s. 176.05 (1f) that license fees be deposited in the state treasury and credited to the general fund is not continued. Sections 20.906 (1) and 25.20, Wis. stats., already ensure that result.

125.54 Wholesalers' permits. (1) **AUTHORIZED ACTIVITIES.** The department shall issue wholesalers' permits authorizing the permittee to sell intoxicating liquor at wholesale in quantities of not less than 4 liters at any one time, from the premises described in the permit. The permittee may not sell intoxicating liquor for consumption on the premises. Possession of a permit under this section does not authorize the permittee to sell tax-free intoxicating liquor and wine brought into this state under s. 139.03 (5).

(2) **PERSONS ELIGIBLE.** Except as provided under s. 125.69, a wholesaler's permit may be issued to any person qualified under s. 125.04 (5), except a foreign corporation or a person acting as an agent for or in the employ of another.

(3) **TERM OF PERMIT.** Permits issued under this section expire on July 1 of each year.

(4) **FEES.** The annual fee for a wholesaler's permit is \$500.

(5) **SALES AREA.** No wholesaler may sell any intoxicating liquor before filing with the department a written statement that the permittee is a distributor of a particular brand in this state, or an area of this state, and that the sales of that brand by the permittee and anyone purchasing from the permittee will be limited to the area specified. The permittee shall notify the department of any change in the area within 7 days of the effective date of the change.

(6) **MULTIPLE PERMITS.** Not more than 2 wholesalers' permits may be issued to any one person. In each application for a wholesaler's permit, the applicant shall state that application has not been made for more than one other wholesaler's permit.

NOTE: 1. Recodified s. 125.54 incorporates provisions of ss. 176.01 (9) and (10) and 176.05 (1a) (intro.) and (b), (1b), (1c), (1f) and (3).

2. That part of s. 176.05 (1a) (b), relating to applying ss. 176.41, 176.62 and 176.70 to the requirement that the department of revenue be notified of the area within which a particular brand will be sold, is not continued. Sections 176.41

and 176.62 are the general penalty and confiscation sections and their counterparts in the recodified law would automatically apply to any violations. Section 176.70 relates to permits to sell for future delivery and its scope is restricted to the permit requirement. It does not appear to apply to any other violations of law, including any revocation of such licenses for violation of the sales area law.

3. The requirement in s. 176.05 (1a) that license fees be deposited in the state treasury and credited to the general fund is not continued. Sections 20.906 (1) and 25.20, Wis. stats., already ensure that result.

4. The lower limit on the amount of intoxicating liquor that wholesalers may sell at wholesale has been changed from one wine gallon to its metric equivalent of 4 liters.

5. The authorization for a wholesaler to wholesale wine without obtaining a winery permit [s. 176.05 (1f)] is implicit in the authorization in sub. (1) to wholesale intoxicating liquor.

6. The cross-reference to s. 125.69 in sub. (2) is new. The purpose of this addition is to add a reference to restrictions in other sections of this chapter on the issuance of permits.

125.55 Combination permits. (1) The department may issue the following combination permits:

- (a) A combination manufacturer's and rectifier's permit.
- (b) A combination rectifier's and wholesaler's permit.
- (2) A combination manufacturer's and wholesaler's permit may not be issued.
- (3) The annual fee for any combination permit issued under sub. (1) is \$1,000.

NOTE: Section 125.55 restates a portion of the substance of ss. 176.01 (9) and 176.05 (1a).

125.56 Sacramental wine. (1) **AUTHORIZATION TO SELL.** Any person holding a permit under s. 125.52 (1), 125.53 or 125.54 may sell sacramental wine directly to persons holding permits under sub. (2).

(2) **SACRAMENTAL WINE PERMIT.** (a) The department shall issue sacramental wine permits to organized religious bodies authorizing them to purchase for their own use sacramental wine from any permittee under s. 125.52 (1), 125.53 or 125.54. A permit under this subsection does not authorize the resale of sacramental wine by the permittee.

(b) No sacramental wine permit may be issued to a person acting as an agent for or in the employ of another.

(c) Shipments of sacramental wine shall be conspicuously labeled "for sacramental purposes" and shall meet any other requirements the department prescribes by rule.

(d) A sacramental wine permit shall be issued free of charge by the department and is not subject to s. 125.04 (11).

NOTE: 1. Section 125.56 restates the substance of ss. 176.05 (1g), 176.05 (1b) and (3), and 176.402 as it applies to sacramental wine permits and sales.

2. "Persons holding permits under sub. (2)" has been substituted for "ministers", etc., in s. 176.05 (1g) to provide consistency between the class of persons to whom the manufacturers, rectifiers, wholesalers and wineries may sell sacramental wine and the class of persons who may obtain permits to purchase sacramental wine.

125.57 Pharmacist's license. (1) **ISSUANCE OF LICENSE.** Every municipal governing body may, upon written application, grant to any registered pharmacist a license authorizing the sale of intoxicating liquor in quantities of less than 4 liters within the municipality. Sales of intoxicating liquor under this section shall be for medicinal, mechanical or

scientific purposes only. No liquor may be consumed on the premises where the purchase is made.

(2) **LICENSE FEE.** The annual fee for a license issued under this section may not exceed \$10.

(3) **DOCUMENTATION OF RETAIL SALES.** Prior to purchasing intoxicating liquor for medicinal or scientific purposes from a pharmacist holding a license under this section, the purchaser shall submit a written statement to the pharmacist specifying the purpose for which the intoxicating liquor is to be used; stating that it will not be used for beverage purposes; and, in the case of a sale for medicinal purposes, stating the date and number of the prescription and the name of the physician issuing it. The statement shall be dated and signed by the purchaser and witnessed by the pharmacist.

(4) **RECORD BOOK.** Every pharmacist shall keep a record book in which shall be entered the date, kind, quantity, purchaser's name and purpose of every sale of intoxicating liquor under this section. A verified copy of the record book entries shall be filed annually with the municipal clerk on the 3rd Tuesday in April. The clerk shall maintain all records submitted by pharmacists for one year.

(5) **PRESERVATION OF PURCHASER'S STATEMENTS.** Each pharmacist shall keep the statements and prescriptions submitted by purchasers with the record book. The book, statements and prescriptions shall be open to public inspection at all times. The pharmacist shall file the prescriptions and statements with the municipal clerk each month. The clerk may destroy the statements and prescriptions at 90-day intervals.

(6) **FALSE STATEMENTS.** Any person making a false representation to a physician in order to secure a prescription for intoxicating liquor, or to a pharmacist or to any employe of the pharmacist for the purpose of inducing the sale of intoxicating liquor for other than medicinal, mechanical or scientific purposes, is subject to the penalties under sub. (7).

(7) **NONCOMPLIANCE; PENALTY.** A pharmacist who violates this section shall be fined not less than \$40 nor more than \$200, plus costs, or may be imprisoned for not less than 30 days nor more than 8 months.

(8) **LICENSE REVOCATION.** The court, upon conviction of a pharmacist for any violation of this chapter relating to intoxicating liquor, may revoke any license issued to the pharmacist under this section.

(9) **TAX STAMP.** All containers of intoxicating liquor having an alcoholic content of 21 % or more by volume, dispensed by a pharmacist holding a license under this section, shall bear a state stamp in addition to any other required stamp, attached as provided by rule of the department. Stamps shall be furnished by the department at the following rates:

(a) *U.S. liquid measure containers.* 1. Eight ounces or less, one-half cent.

2. More than 8 ounces to 16 ounces, one cent.

3. More than 16 ounces, 2 cents.

(b) *Metric containers.* 1. Two hundred milliliters or less, one-half cent.

2. More than 200 to 500 milliliters, one cent.

3. More than 500 milliliters to one liter, 2 cents.

4. More than one liter, 3 cents.

(10) **ADVERTISING.** (a) Pharmacists licensed under this section may not directly or indirectly advertise any intoxicating liquor or display any intoxicating liquor in any show window or showcase or in connection with any soda fountain. Intoxicating liquor may be displayed for sale on wall shelving not exceeding 3 feet in length. This paragraph does not apply to pharmacists holding a license under this section who also hold a retail "Class A" or "Class B" license. Persons violating this paragraph shall be fined not less than \$25 nor more than \$300 or imprisoned for not less than 10 days nor more than 6 months or both.

(b) Any registered pharmacist holding a license issued under this section may display or exhibit it.

NOTE: Section 125.57 recodifies s. 176.18.

125.58 Out-of-state shippers' permit. (1) The department shall issue out-of-state shippers' permits which authorize persons located outside this state to sell or ship intoxicating liquor into this state. Intoxicating liquor may be shipped into this state only to a person holding a manufacturer's, rectifier's, wholesaler's, industrial alcohol or medicinal alcohol permit. A separate out-of-state shipper's permit is required for each location from which any intoxicating liquor is sold or shipped into this state, including the location from which the invoices are issued for the sales or shipments. Any person holding an out-of-state shipper's permit issued under this section may solicit orders for sales or shipments by the permittee without obtaining the sales solicitation permit required by s. 125.65, but every agent, salesperson or other representative who solicits orders for sales or shipments by an out-of-state shipper shall first obtain a permit for soliciting orders under s. 125.65.

(2) Out-of-state shippers' permits may be issued to any person except a person acting as an agent for or in the employ of another. Notwithstanding s. 125.04 (5) (a), natural persons obtaining out-of-state shippers' permits are not required to be residents of this state. Notwithstanding s. 125.04 (6), corporations obtaining out-of-state shippers' permits are not required to appoint agents.

(3) The annual fee for an out-of-state shipper's permit is \$50.

NOTE: 1. Section 125.58 restates the substance of ss. 176.03 (2a), 176.05 (1h), and 176.05 (1b) and (3) as it applies to out-of-state shippers' permits.

2. The statements in ss. 176.03 (2a) and 176.05 (1h) that no person located outside this state may engage in the sale of or make any shipments of intoxicating liquor or wine into this state without first obtaining an out-of-state shipper's permit is not included in s. 125.58 because the substance of that requirement is included in s. 125.04 (1).

3. Specific reference to "wine" has been deleted in s. 125.58 because "wine" is included in the definition of "intoxicating liquor" in s. 125.01 (8).

4. Specific authorization to ship to industrial and medicinal alcohol permittees has been added to sub. (1).

125.59 Warehouse receipts salesperson's permit. (1) The department may issue a warehouse receipts salesperson's permit which authorizes the permittee to sell warehouse receipts for intoxicating liquor only to manufacturers, rectifiers, wholesalers and retailers of intoxicating liquor holding licenses or permits under this chapter.

(2) Warehouse receipts salesperson's permits may be issued only to natural persons who also hold a permit under s. 125.65 and who are also registered with the department to sell intoxicating liquor for a manufacturer, rectifier or wholesaler of intoxicating liquor holding a permit under this chapter. The warehouse receipts salesperson permittee shall represent such manufacturer, rectifier, wholesaler or retailer in selling warehouse receipts. No warehouse receipts salesperson's permit may be issued to any person acting as agent for or in the employ of another.

(3) The annual fee for a warehouse receipts salesperson's permit is \$100.

(4) Any person who sells warehouse receipts for intoxicating liquor without a permit issued under this section or who sells such receipts to a person other than an intoxicating liquor manufacturer, rectifier, wholesaler or retailer holding a license or permit under this chapter shall be imprisoned for not less than one year nor more than 3 years or fined not less than \$100 nor more than \$5,000 or both, and shall have his or her permit automatically revoked. Any person having his or her permit so revoked may not be granted another permit for a period of 2 years following the revocation.

NOTE: Section 125.59 restates the substance of ss. 176.055 and 176.05 (1b) and (3), as it applies to warehouse receipts salespersons' permits.

125.60 Wholesale alcohol permit. (1) The department may issue a wholesale alcohol permit which authorizes the permittee to sell ethyl alcohol of 190 proof or more to persons holding permits or licenses issued under s. 125.57, 125.61 or 125.62. Nothing in this section requires manufacturers, rectifiers and wholesalers holding permits issued under s. 125.52 (1) or 125.54 to obtain a wholesale alcohol permit.

(2) Wholesale alcohol permits may be issued to any person qualified under s. 125.04 (5), except a person acting as an agent for or in the employ of another.

(3) Holders of wholesale alcohol permits who do not hold permits issued under s. 125.52 (1) or 125.54 are exempt from s. 125.65 as it relates to special permits for agents or representatives of wholesale alcohol permit holders.

(4) Holders of wholesale alcohol permits under this section who do not hold permits issued under s. 125.52 (1) or 125.54 may sell or deal in ethyl alcohol in quantities of not less than 500 milliliters at any one time, no part of which may be sold for consumption on the premises of the permittee.

(5) Wholesale alcohol permits shall be issued for an annual fee of \$50, shall expire on July 1 and shall meet any other requirement the department prescribes by rule.

NOTE: 1. Section 125.60 restates the substance of s. 176.406 and that portion of s. 176.05 (1b) and (3) which applies to wholesale alcohol permits.

2. The word "rule" has been substituted for "regulation" in sub. (5) because the department prescribes regulations by adoption of rules.

3. The reference to "one pint" in s. 176.406 has been changed to its metric equivalent of 500 milliliters in sub. (4).

125.61 Medicinal alcohol permit. (1) The department may issue a medicinal alcohol permit which authorizes the permittee to purchase and use alcohol for medicinal purposes only. The permit may be issued only to persons who prove to the department that they use alcohol for medicinal purposes.

(2) Medicinal alcohol permits may be issued to any person qualified under s. 125.04 (5), except a person acting as an agent for or in the employ of another.

(3) Shipments of medicinal alcohol shall be conspicuously labeled "for medicinal purposes" and shall meet other requirements which the department prescribes by rule.

(4) A medicinal permit shall be issued free of charge by the department and is not subject to s. 125.04 (11).

NOTE: 1. Section 125.61 restates the substance of ss. 176.404 and 176.05 (3) as it applies to medicinal alcohol permits.

2. The word "rule" is substituted for the word "regulation" in sub. (3) because the department of revenue prescribes regulations by adopting rules.

125.62 Industrial alcohol permit. (1) The department may issue an industrial alcohol permit which authorizes the permittee to purchase and use alcohol for industrial purposes only. Such permits may be issued only to persons who prove to the department that they use alcohol for industrial purposes.

(2) Industrial alcohol permits may be issued to any person qualified under s. 125.04 (5), except a person acting as agent for or in the employ of another.

(3) Shipments of industrial alcohol shall be conspicuously labeled "for industrial purposes" and shall meet other requirements which the department prescribes by rule.

(4) The annual fee for an industrial alcohol permit is \$10.

NOTE: 1. Section 125.62 restates the substance of ss. 176.403 and 176.05 (3) as it applies to industrial alcohol permits.

2. The word "rule" has been substituted for the word "regulation" in sub.
- (3). The department prescribes regulations by adopting rules.
3. The \$10 fee in sub. (4) has been recodified to clarify that it is an *annual* fee.

125.63 Industrial wine permit. (1) The department may issue an industrial wine permit which authorizes the purchase and use of wine for industrial purposes only. An industrial wine permit may be issued only to persons who prove to the department that they use wine for industrial purposes.

(2) Industrial wine permits may be issued to any person qualified under s. 125.04 (5), except a person acting as an agent for or in the employ of another.

(3) Shipments of industrial wine shall be conspicuously labeled "for industrial purposes" and shall meet other requirements which the department prescribes by rule.

(4) The annual fee for an industrial wine permit is \$10.

NOTE: 1. Section 125.63 restates the substance of ss. 176.407 and 176.05 (1b) and (3) as it applies to industrial wine permits.

2. The \$10 fee in sub. (4) has been recodified to clarify that it is an *annual* fee.

125.65 Permit to solicit for future sales. (1) The department may issue a permit for sales for future delivery which authorizes the permittee to solicit orders, and to engage in the sale, of intoxicating liquor for delivery at a future date.

(2) Permits for sale for future delivery may be issued to any person qualified under s. 125.04 (5). Notwithstanding s. 125.04 (5), natural persons obtaining permits under this section are not required to be residents of this state.

(3) Both natural persons engaged in actual solicitation of orders or sales and their employers shall obtain permits under this section.

(4) The department shall require the following information in applications for permits under this section:

(a) The type of permit desired.

(b) The name and address of the applicant; if the applicant is a partnership or association, the name and address of each member thereof; or if the applicant is a corporation, the name and address of each of its officers.

(c) The places where the business is to be conducted.

(d) For the period of at least 3 years immediately preceding the date of application, the business or occupation, if any, engaged in by the applicant; if a partnership or association, by each member thereof; or if a corporation, by each officer.

(e) Any other information required by the department.

(5) The annual fee for a permit issued under this section is \$10.

(6) Employers shall furnish the department with the names of all employes engaged in activities requiring a permit under this section and shall notify the department whenever an employe begins or terminates employment. Upon leaving employment, an employe shall submit his or her permit to the department for cancellation.

(7) Every person holding a permit under this section shall exhibit it upon request to any prospective purchaser.

(8) Nonresident persons holding permits under this section may solicit sales from retailers in this state only if the orders are solicited for, and will be filled by, persons holding permits under s. 125.52 or 125.54.

(9) Any person who violates this section shall be fined not less than \$100 nor more than \$500 or imprisoned for not less than 30 days nor more than 6 months or both. Conviction for a violation of this section shall result in automatic revocation of any permit issued under this section. If a permit issued under this section is so revoked, another permit may not be issued to the same person for a period of 2 years following revocation.

NOTE: 1. Section 125.65 restates the substance of s. 176.70.

2. Subsection (3) explicitly sets forth the requirement implicit in s. 176.70 that permits to solicit for future sales must be held by both the principal company or entity (employer) and by every employe who actually engages in such solicitation.

3. The statement in s. 176.70 (3) that permits issued under this section shall expire on December 31 has been deleted as unnecessary. Section 125.04 (11) provides that all permits issued by the department, other than retail permits, expire on that date.

4. Subsection (5) clarifies that the fee is an annual fee.

5. The statement in s. 176.70, that failure or refusal by a permittee to exhibit his or her permit upon request is a violation, is not continued. The obligation to exhibit a permit on request is continued in s. 125.65 (7). Failure to do so is automatically a violation.

6. The essential portion of s. 176.70 (6) regulating solicitations by nonresident permittees is continued in recodified s. 125.65 (8). Only the restrictive language — relating to sales to retailers in this state — is continued. The references in sub. (8) to Wisconsin persons holding permits under s. 125.52 or 125.54 refer to manufacturers and rectifiers and to wholesalers, respectively.

7. Recodified s. 125.65 (4) (d) has been drafted to clarify that the requirement for reporting previous businesses and occupations applies to all applicants, not just corporate officers.

8. The requirement that the department require information so that it can determine the quality of intoxicating liquor sold and the trustworthiness of each applicant, or member of an association or partnership [s. 176.70 (2) (e)] has been deleted as a realistically unachievable goal.

9. The requirement that applications be “verified” by the applicant [s. 176.76 (3)] has been deleted.

125.66 Sale without license; failure to obtain permit; penalties. (1) Any person who sells, or possesses with intent to sell, intoxicating liquor and who does not hold the appropriate license or permit shall, upon conviction, be fined not less than \$250 nor more than \$1,000 plus costs or imprisoned in the county jail for not less than 3 months nor more than one year. In the event of a 2nd or subsequent conviction of the same person during any 12-month period, the sentence shall consist of both the fine and imprisonment.

(2) The issuance of any current permit or special tax stamp of the federal government to any person, authorizing or permitting the person to sell intoxicating liquor, shall be prima facie evidence in any prosecution for violation of this section that the person was engaged in selling intoxicating liquor.

(3) Any person manufacturing or rectifying intoxicating liquor without holding appropriate permits under this chapter, or any person who sells such liquor, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned for not less than one year nor more than 10 years or both. Second or subsequent convictions shall be punished by both the fine and imprisonment.

NOTE: 1. Section 125.66 continues ss. 176.04 (1) and (2) and 176.051.

2. The last sentence of s. 176.051, dealing with “aiding and abetting”, is not continued. Section 939.05 — “Parties to crime” — clearly allows the same crime to be charged to persons aiding and abetting the principal offender. See s. 939.05 (2) (b), in particular.

3. The provision in s. 176.04 (1) dealing with multiple violations “during any year” is recodified in s. 125.66 (1) as “during any 12-month period”. No substantive change is intended.

4. The provision in s. 176.04 (1), that if a fine is imposed, the convicted violator shall be jailed until the fine is paid, is not continued. The general statute on fines [s. 973.05 (1)], which allows a sentencing court to grant up to 60 days within which a fine may be paid, will apply.

5. Section 176.05 has been restated in sub. (3) to clarify its application to sales of intoxicating liquor illicitly manufactured.

125.67 Evading provisions of law by giving away intoxicating liquor; penalties. Giving away intoxicating liquor or using any other means to evade any law of this state relating to the sale of intoxicating liquor is punishable by a fine of not more than \$250, plus the costs of prosecution if no specific penalty is provided in this chapter.

NOTE: 1. Section 125.67 recodifies s. 176.37 (1).

2. The last major clause of s. 176.37, relating to the phrase “any law of the state relating to excise or the sale of intoxicating liquor” has been deleted. It appears to be stating a self-evident proposition; also, those words, or words “of similar import” do not appear to be used anywhere in the statutes. No substantive change is intended.

3. That part of s. 176.37 (1), requiring imprisonment for not less than 60 days nor more than 6 months if a fine is not immediately paid, is not continued. The general sentencing provisions on fines [ss. 973.05 (1) and 973.07] will apply.

125.68 General restrictions and requirements. (1) **MANAGERS’ LICENSES; “CLASS B” PREMISES.** (a) If a municipal governing body elects to issue managers’ licenses under s. 125.18, no person may manage premises operating under a “Class B” license issued by that municipality unless the person is the licensee, an agent of a corporation appointed as required by s. 125.04 (6) or the holder of a manager’s license. A person manages “Class B” premises if that person has responsibility or authority for:

1. Personnel management of all employees, whether or not the person is authorized to sign employment contracts;
2. The terms of contracts for the purchase or sale of goods or services, whether or not the person is authorized to sign the contracts; or
3. The daily operations of the “Class B” premises.

(b) The municipal governing body may, by ordinance, define factors in addition to those listed in par. (a) which constitute management of “Class B” premises.

(2) **OPERATORS’ LICENSES; “CLASS A” OR “CLASS B” PREMISES.** No premises operated under a “Class A” or “Class B” license or permit may be open for business unless there is upon the premises either the licensee, the agent named in the license if the licensee is a corporation, the agent named in a “Class B” permit or some person who has an operator’s license and who is responsible for the acts of all persons selling or serving any intoxicating liquor to customers. For the purpose of this subsection, any person holding a manager’s license issued under s. 125.18 or any member of the licensee’s immediate family 18 years of age or older shall be considered the holder of an operator’s license. No person, including a member of the licensee’s immediate family under the age of 18 years, other than the licensee or agent may serve or sell alcohol beverages in any place operated under a “Class A” or “Class B” license or permit unless he or she has an operator’s license or is under the

immediate supervision of the licensee or agent or a person holding an operator's license, who is on the premises at the time of the service.

(3) RESTRICTIONS ON LOCATION. (a) *Schools, churches and hospitals.* No "Class A" or "Class B" license or permit may be issued for premises the main entrance of which is less than 300 feet from the main entrance of any public or parochial school, hospital or church. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license or permit. This paragraph does not apply to premises covered by a license or permit on June 30, 1947, or covered by a license or permit prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.

(b) *Mental health institutes.* No person may sell any intoxicating liquor within one mile of any mental health institute, as defined in s. 51.01 (12). Any person who violates this paragraph shall be fined not less than \$100 nor more than \$250 or imprisoned not more than 6 months or both.

(4) CLOSING HOURS. (a) *Wholesalers.* No premises for which a wholesale intoxicating liquor permit has been issued may remain open for the sale of intoxicating liquor between the hours of 5 p.m. and 8 a.m., except on Saturday the premises may remain open until 9 p.m.

(b) *"Class A" retailers.* No premises for which a "Class A" license or permit has been issued may remain open between the hours of 9 p.m. and 8 a.m.

(c) *"Class B" retailers.* 1. In any county having a population of less than 500,000, except in a 1st class city which is located in more than one county, no premises for which a "Class B" license or permit has been issued may remain open between the hours of 1 a.m. and 8 a.m., except as otherwise provided in this subdivision and subd. 4. On January 1, no premises may remain open between 3 a.m. and 8 a.m. During that portion of each year for which the standard of time is advanced under s. 175.095, no premises may remain open between 2 a.m. and 8 a.m., but the municipality in which the premises is located may establish an earlier closing hour.

2. In any county having a population of 500,000 or more, and in 1st class cities located in more than one county, no premises for which a "Class B" license or permit has been issued may remain open on weekdays between 2 a.m. and 6 a.m. and on Sundays between 3:30 a.m. and 10 a.m., except as provided in this subdivision and subd. 4. On January 1, the premises are not required to close. On any other holiday which under s. 230.35 (4) (a) may fall on a Monday, no premises may remain open between 3:30 a.m. and 10 a.m. when the holiday is celebrated on a Monday.

3. Between 12 midnight and 8 a.m. no person may sell intoxicating liquor on "Class B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises. A municipal governing body may, by ordinance, impose more restrictive hours than are provided in this subdivision.

4. Hotels and restaurants whose principal business is the furnishing of food, drinks or lodging to patrons, bowling alleys and golf courses may remain open for the conduct of their regular business but may not sell intoxicating liquor during the closing hours mentioned in this paragraph.

(5) RESTAURANT SANITATION RULES. No applicant may obtain a "Class B" license or permit unless the premises complies with the rules promulgated by the department of health and social services governing sanitation in restaurants. However, the department of health and social services may not restrict the serving of cheese without charge in individual portions to customers as permitted by ss. 50.50 (3) and 125.09 (4).

(6) AUCTIONS. (a) No person may sell, furnish or give away any intoxicating liquor at any public auction, except that commemorative bottles or other uniquely designed decanters may be sold as provided in s. 125.06 (9). Persons violating this section shall be

fined not less than \$100 nor more than \$250 or imprisoned for not less than 3 months nor more than 6 months, or both.

(b) Selling, furnishing or giving away intoxicating liquor on premises for which a "Class B" license has been issued is not a violation of this section if no activity related to a public auction being held on the premises occurs in the room where the intoxicating liquor is sold, furnished or given away.

(7) ALCOHOLIC CONTENTS. No person holding a retail license or permit issued under this chapter may buy or sell alcohol which exceeds 50% alcohol by volume, or 100 proof.

(8) SALE FROM ORIGINAL CONTAINER. (a) A person convicted of any of the following prohibited activities shall be fined not less than \$150 nor more than \$500 or imprisoned not less than 60 days nor more than 6 months or both:

1. Diluting any intoxicating liquor for purposes of sale as undiluted intoxicating liquor.
2. Refilling any original container which had previously been used for intoxicating liquor containing 21% or more of alcohol by volume.
3. Possessing diluted intoxicating liquor or refilled original containers on any premises covered by a "Class A" license or "Class B" license or permit.

(b) Possession of an original container which contains diluted intoxicating liquor or which has been refilled is prima facie evidence of intent to violate this subsection.

(9) LABELS; CONTENTS; PACKAGING. (a) No manufacturer, rectifier or wholesaler may sell or deliver in this state any package or container of intoxicating liquor which does not bear the revenue stamps required by federal law or the laws of this state.

(b) All containers of intoxicating liquor sold in this state shall be clearly and legibly labeled with the name and address of the manufacturer and the name of the intoxicating liquor. The label shall meet any other labeling requirements created by the federal alcohol administration act.

(c) No intoxicating liquor may contain any added ingredients or substances which are injurious to health or deleterious for human consumption.

(d) All packages or containers of intoxicating liquor delivered in this state shall bear seals affixed by the manufacturer so that the contents cannot be removed without breaking the seals.

(e) No person holding a license or permit issued under this chapter may possess or sell any package or container of intoxicating liquor which does not comply with pars. (a), (b) and (d) or which does not bear evidence that the package or container was in compliance when delivery was taken.

(f) Every person manufacturing, rectifying or blending intoxicating liquor sold in this state shall provide the department with the names, brands, descriptions, alcoholic content by volume and any other information about the intoxicating liquor required by the department. Information required by this paragraph shall be submitted prior to placing any new blend on the market. The department may also require by rule that samples of new products be submitted for examination and analysis.

(g) Persons convicted of violating this subsection shall be fined not less than \$500 nor more than \$1,000 or imprisoned in the county jail for not less than 3 months nor more than one year or both.

(10) SHIPMENTS INTO STATE. (a) No intoxicating liquor may be shipped into this state unless consigned to a person holding a permit for the sale of intoxicating liquor, other than a retail "Class B" permit.

(b) No common carrier or other person may transport into and deliver within this state any intoxicating liquor unless it is consigned to a person holding a permit for the sale of intoxicating liquor, other than a retail "Class B" permit. Any common carrier violating this paragraph shall forfeit \$100 for each violation.

(c) This subsection does not apply to purchases made under a permit issued under s. 125.61.

(11) **ALCOHOL OR WINE FOR NONBEVERAGE USE; PENALTY.** (a) The following products are not intoxicating liquor subject to this chapter, when unfit for beverage purposes:

1. Denatured alcohol produced and used pursuant to acts of congress and regulations promulgated thereunder.
2. Patent, proprietary, medicinal, pharmaceutical, antiseptic and toilet preparations.
3. Flavoring extracts, syrups and food products.
4. Scientific, chemical, mechanical and industrial products.

(b) Any person who sells any of the products enumerated in par. (a) for intoxicating beverage purposes, either knowingly or under circumstances from which a reasonable person may deduce the intention of the purchaser to use them for such purposes, shall be penalized under s. 125.11.

(12) **DENATURED ALCOHOL.** (a) No person may recover any alcohol or alcoholic liquid from denatured alcohol by any process or use, sell, conceal or dispose of, in any manner, any alcohol or alcoholic liquid derived from denatured alcohol.

(b) Whoever violates par. (a) shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned not less than one year nor more than 10 years or both.

(c) Any person causing the death of another human being through the selling or otherwise disposing of, for beverage purposes, either denatured alcohol or alcohol or alcoholic liquid redistilled from denatured alcohol, shall be imprisoned for not more than 10 years.

NOTE: 1. Section 125.68 (1) restates the substance of s. 176.05 (10m).

2. Section 125.68 (2) restates the substance of s. 176.05 (11) and the last sentence of s. 66.054 (11) (a).

The phrase "serving (or served) any intoxicating liquor" has been substituted for the phrase "serving (or served) as a waiter, or in any other manner, any intoxicating liquor". No substantive change in the law is intended.

The verb "sell" has been inserted next to "serve" to reflect the application of this subsection to "Class A" (package goods) establishments.

Unlike s. 66.054 (11) (b), relating to operators' requirements for fermented malt beverages Class "B" premises, s. 176.05 (11), relating to operators' requirements for intoxicating liquor "Class A" and "Class B" premises, places no age restrictions on members of the immediate family who may serve alcohol beverages when an operator who is 18 years of age or older is not on the premises. Restrictions similar to those in s. 66.054 (11) (b) [see s. 125.32] have been added to sub. (2).

Under current practice, in those instances where the licensee or permittee is an entity (such as a corporation or country club), the agent named does not need an operator's license. Subsection (2) has been recodified to specifically so state and to clarify that members of the immediate family of an agent do not have the same status as members of a licensee's immediate family.

3. Section 125.68 (3) restates the substance of ss. 176.05 (9m) and 176.30 (3).

References to trafficking in or giving away intoxicating liquor for the purposes of evading state law have been deleted from par. (b) because they are included in the definition of "sell" in s. 125.02 (20).

The exception to the distance requirement in s. 176.30 (3) for the central state hospital at Waupun is not continued. That institution is not a “mental health institute”, as defined in s. 51.01 (12), and therefore is automatically excepted from the one-mile distance requirement.

Section 176.30 (3) has been incorporated into recodified sub. (3) (b).

4. Section 125.68 (4) restates the substance of ss. 176.06 and 176.07. The phrase “for the sale of intoxicating liquor” has been added to par. (a) to clarify the scope of wholesalers’ closing hours.

5. Section 125.68 (5) restates the substance of s. 176.05 (6) (a).

6. Section 125.68 (6) restates the substance of s. 176.33.

The reference to s. 125.06 (9) has been added to par. (a) to clarify that commemorative bottles containing intoxicating liquor may be sold at auctions, as provided in s. 125.06 (9).

7. Section 125.68 (7) restates the substance of s. 176.705.

8. Section 125.68 (8) restates the substance of s. 176.341.

The substance of s. 176.341 (2), referring to powers of enforcement personnel to seize intoxicating liquor as evidence of violations of this subsection, is not continued. Under recodified s. 125.14 (2), such powers already exist.

9. Subsection 125.68 (9) restates the substance of s. 176.60.

The phrase “alcoholic liquor” in s. 176.60 has been replaced by “intoxicating liquor”.

The requirement that revenue stamps be “canceled” has been deleted in par. (a).

The enumeration in s. 176.60 (1) of specific kinds of intoxicating liquor and the requirement in s. 176.60 (3) that labels meet requirements of rules promulgated by the department have not been continued. The statement that labeling requirements of the federal alcohol administration act be met is new.

Recodified par. (c) revises the sentence, relating to injurious ingredients, drawn from s. 176.60 (1) to clarify that the prohibition applies to “added” ingredients or substances.

Recodified par. (d) deletes references to delivery to manufacturers, distributors or importing distributors, since it is unclear who distributors are. The central requirement — that the package delivered be equipped with a seal which must be broken to remove the contents — is retained.

10. Section 125.68 (10) continues the substance of s. 176.03 (2), (3), (4) and (5).

Because all authorizations issued by the department are referred to as “permits” under the recodified law, it has been necessary to create an exception in pars. (a) and (b) for retail “Class B” permits issued to country clubs. They were formerly referred to as “licenses” under s. 176.05 (4a), and therefore were excluded from s. 176.03 (2) and (3).

Although s. 176.03 (4) opens common carriers to liability for penalties for violating “the requirements of ch. 176”, it appears that s. 176.03 (3) was the only part of ch. 176 applying to common carriers. Therefore, recodified par. (b) restricts the penalty to violations of the paragraph.

Paragraph (b) explicitly states that the obligation on transporters of intoxicating liquor regarding consignments to permittees only applies to transportation into *and delivery* within the state. The intent is to make clear that interstate transportation *through* the state is not subject to this requirement.

11. Section 125.68 (11) recodifies the substance of s. 176.041. The first clause of the section, stating that taxes imposed by ch. 139 do not apply to wine and alcohol used in the manufacture of the described products, has not been continued. The exemption from taxation is already specifically set out in s. 139.04 (7) and (9).

The explicit statement in par. (a) (intro.), that the described products are not considered intoxicating liquor subject to ch. 125 when unfit for beverage purposes, clarifies the implicit exemption from the intoxicating liquor laws contained in s. 176.401 (1).

12. Section 125.68 (12) recodifies the substance of s. 176.405.

Recodified par. (a) does not repeat all of the detail in s. 176.405 (1) regarding redistillation and disposition of alcohol and alcoholic liquid. No substantive change is intended.

125.69 Restrictions on dealings between manufacturers, rectifiers, wholesalers and retailers. (1) **INTEREST RESTRICTIONS.** (a) No intoxicating liquor manufacturer, rectifier or wholesaler may hold any direct or indirect interest in any "Class A" license or establishment and no "Class A" licensee may hold any direct or indirect interest in a wholesale permit or establishment, except that permits and licenses issued before October 3, 1963, which would after that date be a violation of this restriction, shall be renewed unless other cause is shown for the nonrenewal.

(b) No intoxicating liquor manufacturer, rectifier or wholesaler may hold any direct or indirect interest in any "Class B" license or permit or establishment and no "Class B" licensee or permittee may hold any direct or indirect interest in a wholesale permit or establishment.

(c) No manufacturer, whether located within or without this state, may hold any direct or indirect interest in any wholesale permit or establishment, except as provided in s. 125.53.

(2) **FURNISHING THINGS OF VALUE.** (a) Except as provided in this subsection, no manufacturer, rectifier or wholesaler may furnish, give, lend, lease or sell any equipment, fixtures, supplies, money or other thing of value to any "Class B" licensee or permittee, or to any person for the use, benefit or relief of any "Class B" licensee or permittee, or guarantee the repayment of any loan or the fulfillment of any financial obligation of any "Class B" licensee or permittee. Such actions may not be taken by the manufacturer, rectifier or wholesaler directly or indirectly or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner thereof. No person licensed to sell products of the intoxicating liquor industry may receive, or be the beneficiary of, any of the benefits prohibited by this paragraph.

(b) Notwithstanding the prohibitions contained in this subsection, manufacturers, rectifiers and wholesalers may furnish, give, lend or rent outside and inside signs to "Class B" licensees and permittees if the aggregate value of the signs furnished to a single licensee or permittee does not exceed \$25 in any one calendar year.

(c) Nothing in this subsection affects the extension of usual and customary commercial credits for the products of the intoxicating liquor industry sold and delivered in compliance with sub. (4).

(3) **VOLUME DISCOUNTS TO RETAILERS.** A wholesaler of intoxicating liquor shall charge the same price to all retailers making purchases in similar quantities, regardless of whether the retailer is a "Class A" or "Class B" licensee or permittee. Any discount offered on intoxicating liquor shall be delivered to the retailer in a single transaction and single delivery, and on a single invoice.

(4) **RETAIL PURCHASE CREDIT RESTRICTIONS.** (a) *Restrictions on sales.* No intoxicating liquor retail licensee or retail permittee may:

1. Receive, purchase or acquire intoxicating liquor from any permittee except for cash or credit for a period of not more than 30 days.

2. Receive any intoxicating liquor on consignment or on any basis other than a bona fide sale.

3. Receive, purchase or acquire intoxicating liquor from any permittee if at the time of the receipt, purchase or acquisition, he or she is indebted to any permittee for intoxicating liquor received, purchased, acquired or delivered more than 30 days earlier.

(b) *Restrictions on issuance of licenses and permits.* No intoxicating liquor retail license or retail permit may be issued under this chapter to any person having an indebtedness for intoxicating liquor outstanding more than 30 days. In each application for a retail license or retail permit, the applicant shall state whether the applicant has any indebtedness for intoxicating liquor to any licensee or permittee which has been outstanding for more than 30 days.

(c) *Wholesalers holding retail licenses and permits.* For purposes of this subsection, a person holding both an intoxicating liquor wholesale permit and intoxicating liquor retail license is deemed an intoxicating liquor retailer.

(d) *Penalties.* A retail licensee or retail permittee who violates par. (a) is subject to the penalties in s. 125.11 (1), except that he or she may not be imprisoned.

(e) *Costs.* The cost of administering this subsection shall be charged to the manufacturer, rectifier and wholesaler permittees. The department shall determine the costs and shall establish the procedure for apportioning the cost against the permittees and provide for the method of payment to the department.

(5) **AMERICAN SOURCE OF SUPPLY.** No wholesaler may purchase intoxicating liquor for resale unless he or she purchases it either from the primary American source of supply for the brand of intoxicating liquor sought to be sold or from a wholesaler within this state who holds a permit issued under this chapter. No wholesaler may sell intoxicating liquor purchased by the wholesaler to any other licensee or permittee under this chapter if the intoxicating liquor has not been purchased by the wholesaler from the primary American source of supply or from a wholesaler within the state holding a permit issued under this chapter.

(6) **RETAILERS TO PURCHASE FROM PERSONS HOLDING PERMITS.** No retailer may purchase or possess intoxicating liquor purchased from any person other than a manufacturer, rectifier or wholesaler holding a permit under this chapter for the sale of intoxicating liquor.

(7) **LICENSE OR PERMIT REVOCATION.** The violation of sub. (1), (2), (3) or (5) is sufficient cause for the revocation of the license or permit of any licensee or permittee receiving the benefit from the prohibited act as well as the revocation of the license or permit of the licensee or permittee committing the prohibited act.

NOTE: 1. Subsection (1) restates the substance of ss. 176.05 (1a) (a) and (am) and (5a) and 176.17 (1a) and (5) and the portion of s. 176.05 (1a) (intro.) relating to manufacturers holding wholesalers' permits.

The restriction against manufacturers holding interests in wholesale permits and establishments has been restated in par. (c) to clarify that it applies to manufacturers located without the state as well as manufacturers within the state. The cross-reference to s. 125.53 has been added to clarify that wineries may wholesale wine manufactured by them as provided in that section.

The exception for manufacturers holding interests in wholesale establishments or permits prior to July 5, 1945 [ss. 176.05 (1a) (intro.) and 176.05 (5a)] has been deleted in par. (b) as obsolete.

The exception relating to “Class A” licenses for licenses and permits issued prior to October 3, 1963, [s. 176.05 (1a) (am)] is recodified in par. (a). The similar exception relating to “Class B” licenses or permits has been deleted as unnecessary because no such multiple interests, obtained prior to October 3, 1973, exist.

2. Subsection (2) restates the substance of s. 176.17 (2), (3) and (4).

In sub. (2) (a), the prohibitions against furnishing, giving, renting, lending or selling equipment, fixtures or supplies contained in s. 176.17 (3) have been combined with the prohibitions against furnishing, giving or lending money or other things of value contained in s. 176.17 (2). As a result of this combination, the statement that prohibited gifts, etc., may not be made “to any person for the use, benefit or relief” of a “Class B” licensee or permittee has been extended to apply to equipment, fixtures and supplies as well as money or other things of value.

Section 176.17 (2) and (3) states that prohibited activities may not be done “through a subsidiary or affiliate, or by any officer, director or firm member of the industry”. In sub. (2) (a), this is recodified to “through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner thereof”. No substantive change in the law is intended. The language used here in the proposed recodification is the same as that used under proposed s. 125.33 (1), relating to the “tied-house” restrictions for fermented malt beverages. The revision was made for clarity and consistency.

Throughout sub. (2), ““Class B” licensee or permittee” has been substituted for “any person engaged in selling products of the industry for consumption on the premises where sold”. This is not a substantive change in the law. The change was made for brevity and to provide consistency with language used in the tied-house restrictions relating to fermented malt beverages.

3. Subsection (3) restates that substance of s. 176.17 (5a).

4. Subsection (4) restates the substance of s. 176.05 (23).

Section 176.05 (23) (g) provides that retailers who violate the credit restrictions are subject to having their licenses revoked or suspended under s. 176.121. This provision has been deleted in par. (d) as unnecessary. Under s. 125.12 (4) [which recodifies s. 176.121], s. 125.12 (2), which provides for municipal revocation or suspension of licenses issued by it, and s. 125.12 (5), which provides for revocation and suspension by the department of permits issued by it, licenses and permits may be revoked or suspended for any violation of the chapter.

5. Subsection (5) restates the substance of s. 176.17 (7).

The reference to June 9, 1974, in the last sentence of s. 176.17 (5) was intended to provide a transitional period. The reference has been deleted as obsolete.

6. Subsection (6) restates the substance of s. 176.03 (1).

7. Subsection (7) restates the substance of s. 176.17 (6).

Section 176.17 (6) has been interpreted in sub. (7) to mean that both a licensee or permittee who violates sub. (1), (2), (3) or (5) *and* a licensee or permittee receiving the benefit of the violation may have their licenses or permits revoked. Section 176.17 (6) could, alternatively, be read to mean that a licensee or permittee receiving the benefit of a violation may have his or her license or permit revoked *only if no license or permit* is required of the violator. However, since licenses and permits *are required* of all “manufacturers, rectifiers, wholesalers and other licensees”, this alternative interpretation would seem

to lead to the result that persons receiving the benefit of the violation could *never* have their licenses or permits revoked.

The clause of sub. (7) which states that licensees or permittees who violate sub. (1), (2), (3) or (5) may have their licenses or permits revoked is duplicative of s. 125.12, which states that licenses and permits may be revoked for any violation of the chapter. However, it is included here to ensure that there is no negative implication regarding such revocations from the statement that licensees or permittees receiving the benefit of violations may have their licenses or permits revoked.

SECTION 9. 139.05 (5) of the statutes is repealed.

NOTE: The substance of s. 139.05 (5), relating to out-of-state shippers' permits, is recodified in s. 125.30.

SECTION 10. 139.06 (4) of the statutes is amended to read:

139.06 (4) When intoxicating liquor is stored in a ~~public~~ an alcohol beverage warehouse ~~licensed as provided in ch. 176 for which a permit has been issued under s. 125.19, by a Wisconsin manufacturer or rectifier holding a permit under s. 125.52~~ as a pledge for the loan of money, it is not necessary to affix to the containers either front labels or tax stamps until the liquor is sold or removed from the warehouse. When it becomes necessary for a pledgee to sell such intoxicating liquor in good faith pursuant to the terms of the pledge, and not for the purpose of avoiding the provisions of ss. 139.01 to 139.25 or ch. ~~176~~ 125, it shall be sold to a ~~Wisconsin~~ manufacturer, rectifier or wholesaler holding a permit under s. 125.52 for the purpose of affixing front labels and tax stamps. All such sales shall be reported to the secretary by the pledgee.

NOTE: The amendment to s. 139.06 (4) reflects the renaming of a "public warehouse permit" to an "alcohol beverage warehouse permit" by s. 125.19. It also updates cross-references to ch. 125.

SECTION 11. Chapter 176 of the statutes is repealed.

NOTE: The substance of ch. 176, relating to the regulation of the sale of intoxicating liquor, is recodified in ch. 125.

SECTION 12. 227.15 of the statutes is amended to read:

227.15 Judicial review; orders reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, except the decisions of the department of revenue, other than decisions relating to alcohol beverage permits issued under ch. 125 and decisions of the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, and the state board of vocational, technical and adult education acting under s. 38.29, and as otherwise provided by law, shall be subject to judicial review as provided in this chapter.

NOTE: The amendment to s. 227.15 applies court review under ch. 227 to revocations, suspensions and nonrenewals by the department of permits issued by it.

SECTION 13. 406.102 (3m) of the statutes is amended to read:

406.102 (3m) ~~Subject to this chapter is the~~ The sale, transfer or assignment, in bulk, ~~otherwise than in the ordinary course of trade and in the regular prosecution of the business of seller, transferor or assignor, by retailers of fermented malt beverages or retailers of intoxicating liquors and wines, or retailers of such beverages, liquors and wines, of any part, or the whole, of any stock of goods, wares and merchandise, or of fixtures, pertaining to the same, or of such goods, wares and merchandise and fixtures, including such sales, transfers and assignments~~ any sale, transfer or assignment made in consideration of any

existing indebtedness, otherwise than in the ordinary course of trade and in the usual conduct of business by retailers of alcohol beverages, is subject to this chapter.

SECTION 14. 944.36 of the statutes is amended to read:

944.36 Solicitation of drinks prohibited. Any licensee, permittee or bartender of a retail ~~liquor alcohol beverage establishment licensed covered by a license or permit issued under ch. 176 or retail fermented malt beverage establishment licensed under s. 66.054~~ 125 who ~~permits the solicitation by any an entertainer or employe of to solicit a drink of intoxicating liquor, fermented malt beverages any alcohol beverage, as defined in s. 125.02 (1), or any other drink from any a customer in on the licensed premises, and or any entertainer or employe who solicits such drinks from any customer, is guilty of a Class B misdemeanor.~~

NOTE: The amendment to s. 944.36 reflects the combining of s. 66.054 and ch. 176 into one chapter, ch. 125, and the definition of "alcohol beverage" in that chapter.

SECTION 15. Laws of 1933, chapter 361, section 4, is repealed.

SECTION 16. Laws of 1973, chapter 36, is repealed.

NOTE: These 2 session law provisions are obsolete.

SECTION 16m. Nonstatutory provisions; licenses and permits. (1) Any license or permit issued under section 66.054 or chapter 176, 1979 stats., prior to the effective date of this act remains in effect until the date specified on the license or permit for its expiration.

(2) In applying for a license or permit to be issued on or after July 1, 1982, under chapter 125 of the statutes, as created by this act, each applicant shall comply with all requirements of that chapter relating to the license or permit applied for before the department of revenue or a municipal governing body may grant or issue the license or permit.

(3) (a) Before May 15, 1982, the department of revenue shall prepare an application form for each kind of license, other than a manager's or operator's license, and for each kind of permit that will be issued under chapter 125 of the statutes, as created by this act, on or after July 1, 1982. Each form shall require all of the following information:

1. A history of the applicant relevant to the applicant's fitness to hold a license or permit.
2. The kind of license or permit for which the applicant is applying.
3. The premises where alcohol beverages will be sold or stored.
4. Any other information required by this chapter.

(b) The department of revenue may prepare a simplified application form for renewal of each kind of license or permit which requires only information pertinent to renewal.

(c) The department of revenue shall furnish upon request blank application forms to each municipality issuing licenses.

(d) An application form prepared by the department of revenue shall be used by each applicant for a permit or license, other than a manager's or operator's license, to be issued under chapter 125 of the statutes, as created by this act, on or after July 1, 1982.

(4) This SECTION applies on and after the day after publication of this act. Subsection (2) and (3) apply until June 30, 1982. On and after July 1, 1982, subsection (2) and (3) do not apply.

SECTION 17. Change in terminology. (1) Wherever the term "alcoholic" appears in the following sections of the statutes, the term "alcohol" is substituted: 41.02 (11) (b), 77.51 (21) (c), 118.257 (2) and 939.22 (42).

(2) Wherever the terms "alcoholic beverages", "alcoholic liquor", "alcoholic liquors", "fermented malt beverage or intoxicating liquor", "fermented malt beverages and intoxicating liquors", "intoxicating liquor or fermented malt beverage", "intoxicating liquor or fermented malt beverages", "intoxicating liquor, fermented malt beverages", "intoxicating liquor or malt beverage", "intoxicating or fermented malt beverages", "malt or intoxicating liquors", "malt, spirituous, ardent or intoxicating liquors", "spirituous liquor or wine or cider or beer", "spirituous, malt, ardent or intoxicating liquors", "spirituous or fermented liquors" or "strong, spirituous, vinous, malt, ardent or intoxicating liquor" appear in sections 49.12 (2) and (10), 51.01 (1), 51.45 (1), (2) (a) and (13) (a) 1, 53.37 (2), 59.07 (18) (b), 74.08 (2), 93.23 (4), 97.34 (8), 100.30 (2) (o), 217.12 (3), 218.05 (8), 346.935, 350.08, 350.10 (3), 450.02 (7) (a), 455.09 (1) (b), 779.43 (2) and 812.01 (4) of the statutes, the term "alcohol beverages" is substituted.

SECTION 17m. Program responsibility changes. In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.101 (intro.)	176.62	125.14 (2)
15.191 (intro.)	176.05 (21)(f)	125.51 (4)(e) and 125.68 (5)
15.251 (intro.)	66.054, 176.05 (23)(h), 176.121	ch. 125
15.431 (intro.)	66.054, 66.057 (3) to (5), ch. 176	66.057 (3), ch. 125

SECTION 18. Cross-reference changes. In the sections of the statutes in Column A, the cross-references in Column B are changed to the cross-references in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
48.17 (2)(c), (d) and (e)	66.054 (19), (20), (22) or (24), 176.29, 176.30 (2), 176.31 or 176.32 (1)	125.07 (1), (3), (4) or (5) or 125.09 (2)
48.344 (1)(b)	66.054 (19), (20), (22) or (24), 176.29, 176.30 (2), 176.31 or 176.32 (1)	125.07 (1), (3), (4) or (5) or 125.09 (2)
73.03 (24)	s. 66.054 and chs. 139 and 176	chs. 125 and 139
77.54 (20)(b) 2 139.01 (3), (4), (7) and (8)	66.054 (1)(j) 66.054	125.02 125.02
139.03 (5)(d) 139.08 (3)	176.62 (2)(b) 66.054, 134.65 and 139.01 to 139.44 and ch. 176	125.14 (2)(e) 134.65 and 139.01 to 139.44 and ch. 125
139.08 (4)	s. 66.054 and ch. 176	ch. 125
139.08 (4)	66.054 (17) or 176.121	125.12
139.22	chs. 66 and 176	ch. 125
139.22	176.62 (2)(b)	125.14 (2)(e)
139.34 (1)(c) 6	s. 66.054 or ch. 176	ch. 125
139.37 (1)(c) 6	s. 66.054 or ch. 176	ch. 125
161.11 (5)	66.054 (1)(j)	125.02
343.30 (6)(a)	66.054 (19) (20), (22) or (24), 176.29, 176.30 (2), 176.31 or 176.32 (1)	125.07 (1), (3), (4) or (5) or 125.09 (2)
350.01 (1)	66.054 (1)(j)	125.02
350.01 (6)	176.01 (2)	125.02
553.78	176	125
778.25 (1)	66.054 (19), (20), (22) or (24), 176.29, 176.30 (2), 176.31 or 176.32 (1)	125.07 (1), (3), (4) or (5) or 125.09 (2)
945.041 (1) and (2)	176 or s. 66.054	125
945.041 (3)	176.05 (11)	125.68 (2)
945.041 (4)	176 or s. 66.054	125

SECTION 19. Effective dates. Except as provided under SECTIONS 16e, 16m and 16s, this act takes effect on July 1, 1982.

SECTION 19m. Effective dates. The treatment of section 66.057 (title) of the statutes by this act takes effect on January 1, 1982, or the day after publication, whichever is later.

Conversion table

The following list shows the location of the substance of those statutes recodified in this act. The left-hand column ("Old Section") lists those provisions of the statutes affected by the act, while the right-hand column ("New Section") shows the provision of the recodified alcohol beverage law where the substance of the old provision can be found. This table does not show, except for certain deletions, what specifically happened to a particular section. To find that information, see the new section and the NOTE thereto.

<u>Old Section</u>	<u>New Section</u>
66.054 (1)(intro.)	125.02 (intro.)
(1)(a)	125.02 (2)
(1)(b)	deleted
(1)(c)	125.02 (21)
(1)(d)	125.02 (19)
(1)(e)	deleted
(1)(f)	[see 125.02 (13)]
(1)(g)	deleted
(1)(h)	125.02 (9)
(1)(i)	deleted
(1)(j)	definition
(1)(k)	substantive requirements
(1)(L)	125.02 (17)
(1)(m) to (p)	125.10 (1)
(3)(a)	125.02 (6)
(3)(b) and (c)	125.02 (3)
(4)(a)	deleted
(4)(b)	125.09 (2)(a)
(4)(c)	125.29 (1)
(4)(d)	125.32 (7)
(5)(a)	125.32 (7)
(5)(b)	125.33 (1)
(5)(c)	1st part
(5)(d)	2nd part
(6)	125.31 (1)(a)
(6a)	125.06 (1)
(6b)	125.31 (1)(b)
(6c)	125.31 (1)(c)
(6d)	125.04 (1)
(6e)	125.28 (1)(a)
(6f)	125.29 (3)
(6g)	125.25 (1)
(6h)	125.26 (1)
(6i)	125.28 (1)(a)
(6j)	125.05 (1)
(6k)	125.04 (11)
(6l)	125.04 (9)
(6m)	125.25 (3)
(6n)	125.26 (3)
(6o)	125.28 (1)(c)
(6p)	125.12
(6q)	125.04 (4)
(6r)	125.06 (5) and (6)
(6s)	125.30 (1)
(6t)	125.04 (5)
(6u)	125.04 (6)
(6v)	125.28 (1)(a), (b) and (d)
(6w)	125.28 (2)
(6x)	125.04 (5)
(6y)	125.04 (6)
(6z)	125.31 (2)(a)
(7a)	125.25 (1), (2) and (4)
(7b)	125.04 (5)
(7c)	125.32 (4)(a)
(7d)	125.31 (2)(b)
(7e)	125.26 (2)
(7f)	125.04 (6)
(7g)	125.32 (4)(b)
(7h)	125.04 (10)
(7i)	125.26 (4), (5) and (6)
(7j)	125.26 (1)
(7k)	125.27 (1)

	(8)(e)		125.32 (5)
	(8)(f)		125.32 (6)(a)
	(8a)(a) to (f)		125.33 (3)
	(8a)(g) and		
	(h)		125.33 (3)
	(8a)(i)		125.33 (2)
	(9)(intro.)		incorporated with recodification of remainder of (9)
	(9)(a)		125.32 (3)
	(9)(b)		125.07 (1)(a)
	(9)(c)		125.07 (1)(a) 3
	(9)(d)		125.32 (6)(b)
	(9)(e)		125.32 (7)
	(10)		125.32 (3)
	(10m)(a)		125.18
	(10m)(am)	issuance	125.18
		qualifications	125.04 (5)
	(10m)(b)		125.18
	(10m)(c) and		
	(d)		125.32 (1)
	(10m)(e)		125.04 (3)(d)
	(11)(a)	issuance; operative area	125.17
		qualifications	125.04 (5)
		last sentence	125.32 (2)
			125.68 (2)
	(11)(b)		125.32 (2)
	(11)(c)		125.17
	(11)(d)		125.12 (2)(a)
	(12)		125.10 (1)
	(13)(a)		125.10 (1) and (4)
	(13)(b)		125.12 (1) (a)
	(13)(c)		128.10 (2)
	(14)		125.12
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		municipal regulation	125.10 (1)
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	(15)(e)		deleted
	(16)		125.01
	(17)		125.12 (4)
	(18)		125.04 (4)
	(19)		125.07 (3)
	(20)(a)		125.07 (1)
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	(c)		125.07 (4)
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	(23)	revocations and review	125.12 (5)
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	(24)	remainder	125.27
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	(3)		125.02 (12)
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(21)(a) to (f)		deleted
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(21)(i)		125.51 (4)(g)
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	(24)	125.09 (1)
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176.121	(1) to (3)	125.12 (2) (b) and (c)
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	(5)	125.69 (2)
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	(6)	125.69 (3)
	(7)	125.69 (7)
176.18		125.69 (5)
176.19		125.57
176.20		deleted
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176.23		125.05 (2)
176.24		125.05 (2)
176.25		125.05 (2)
176.27		125.07 (1)
176.28		125.07 (1)
176.29		125.09 (2)
176.30	(1)	125.07 (2)
	(2)	125.07 (1)
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176.31	(1)	125.07 (5)
	(2)	125.07 (4)
176.32	(1)	125.07 (3)
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176.341		125.68 (8)
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176.36		deleted
176.37	(1)	125.67
	(2)	125.14 (6)
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176.40		125.05 (1)
176.401		deleted
176.402		125.68 (11)
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