



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2007 Senate Bill 485

**Senate Substitute
Amendment 1**

Memo published: February 28, 2008

Contact: Don Salm, Senior Staff Attorney (266-8540)

This Memo analyzes *the differences* between Senate Substitute Amendment 1 to 2007 Senate Bill 485 and the bill.

NEW PROVISIONS RELATING TO WINE COLLECTORS

Substitute Amendment 1 [hereafter, “the Substitute Amendment”] creates new provisions, not found in the bill, relating to wine collectors. These provisions are found in SECTIONS 5 to 8 and 10 of the Substitute Amendment and do the following:

1. Create a definition of “*wine collector*” to mean an individual who meets the standards established by the Department of Revenue (DOR) by rule and who is registered with the DOR as a collector of wine.
2. Authorize the sale by a wine collector to any other wine collector of manufacturer-sealed bottles or containers of wine that the selling wine collector has *held for at least eight years* if the selling wine collector has provided *prior notice* of the sale to the department. No more than *one sale in any 12-month period* may be conducted by a wine collector under this provision.
3. Authorize the *donation* by a wine collector of manufacturer-sealed bottles or containers of wine *to any charitable organization* for use by the charitable organization in any event held by the charitable organization or other fundraising effort of the charitable organization. No license or permit under ch. 125, Stats. (the alcohol beverages chapter), is required of the charitable organization for such use of the donated wine.
4. Require the DOR to *promulgate rules* providing for *registration of wine collectors* and establishing *standards of eligibility for registration as a wine collector*. The rules must also specify the form and manner of notice required under item 2., above.

NEW PROVISION PERMITTING COOPERATIVE WHOLESALER TO PURCHASE AND RE-SELL ANCILLARY WINE INDUSTRY TRADE GOODS

The Substitute Amendment creates a new provision, not found in the bill, authorizing a *cooperative wholesaler to purchase ancillary wine industry trade goods* such as bottles, corks, and other supplies used by wineries in the bottling and sale of wine if such trade goods do not include any alcohol beverages. Any wine industry trade goods purchased by a cooperative wholesaler under this provision may be *offered for resale to*: (1) the cooperative wholesaler's members; or (2) any winery that was formerly a member of the cooperative wholesaler.

CHANGES REQUESTED BY THE DOR

The Substitute Amendment makes the following changes to the bill, requested by DOR:

1. SECTIONS 3 and 40 in the bill are deleted. According to the DOR:

This language should be deleted. The transactions covered by lines 16-20, page 6 [SECTION 3 in the bill] are not subject to Wisconsin sales or use tax under current law. Section 77.52 (1), Wis. Stats. (2005-06) imposes tax on retail sales. SECTION 3 only applies to purchases that are for resale (i.e., non-retail sales). The language is unnecessary and therefore should be deleted. [Note from LRB drafter: Eliminating SECTION 3 means that SECTION 40 in the bill also should be removed.]

2. The language in s. 125.545 (5) (b) in the bill (a provision relating to a required annual report by small winery cooperative wholesalers) is replaced by the following language:

With each application for renewal of a wholesaler's permit issued to a cooperative wholesaler, each cooperative wholesaler shall file with the department [DOR], in the form and manner prescribed by the department by rule, a biennial report that includes detailed information on its members, board of directors, and sale and distribution activities.

With reference to this change, DOR notes:

[The provision in the bill] requires a cooperative wholesaler to file an annual report every Feb. 15. It would be more appropriate to require that this information be filed with the Department [DOR] when the wholesaler's permit is issued and renewed. The cooperative wholesaler must apply for a wholesaler's permit within 7 days after filing its articles of incorporation (see lines 12-13 on page 14 of the bill.). Once issued, the permit must be renewed every two years. If an annual report is to be required, it should be filed with the permit renewal.

3. Section 139.11 (4) (b) 1. in the bill requires the DOR to publish, among other things, "Statistics on the total number of *gallons* of the types and brands of intoxicating liquor sold in this state." The Substitute Amendment *substitutes "liters" for "gallons."* According to

the DOR, this change is necessary because tax information is currently reported based on liters not gallons.

4. The Substitute Amendment adds the following sentence, in s. 139.035 (1) in the bill, relating to *confidentiality*:

The department [DOR] shall keep confidential, in the same manner required for tax returns under s. 71.78 (1) and (5) to (8), reports submitted under this subsection, but the department may use aggregated or summary information from such reports for purposes of s. 139.11 (4) (b).

According to DOR:

DOR recommends new confidentiality provisions be added to the bill to prevent the release of information regarding individual consumer purchases of wine. As the three [current] “confidentiality” provisions in the direct sales law are being repealed by the bill [ss. 125.52 (8), 125.53 (3) and 125.58 (4). Stats.], winery reports of financial and consumer sales data to DOR would be subject to the Open Records Law. If the Legislature intends to keep this information private, DOR suggests adding this [confidentiality] language to the bill....

Legislative History

In executive session on February 27, 2008, the Senate Committee on Transportation and Tourism voted to adopt Senate Substitute Amendment 1 on a vote of Ayes, 7; Noes, 0. The committee then voted to recommend passage of the bill, as amended, on a vote of Ayes, 7; Noes, 0.

DLS:jal:ty:ksm