



2005 ASSEMBLY BILL 839

November 23, 2005 – Introduced by Representatives KERKMAN, VOS, BALLWEG, BIES, GUNDERSON, HAHN, HINES, JENSEN, JESKEWITZ, NASS, SHERMAN, STRACHOTA and SUDER, cosponsored by Senators GROTHMAN, A. LASEE, KEDZIE, JAUCH and STEPP. Referred to Committee on State Affairs.

1 **AN ACT** *to amend* 125.06 (13), 125.52 (1) and 125.68 (2); and *to create* 125.52
2 (1) (b) 2. of the statutes; **relating to:** sales and taste samples by manufacturers
3 or rectifiers of intoxicating liquor for consumption on or off the premises where
4 manufactured or rectified and taste samples by certain retail licensees of
5 intoxicating liquor.

Analysis by the Legislative Reference Bureau

Under current law, alcohol beverages are generally distributed to consumers under a three-tier distribution system: the manufacturer may sell only to a wholesaler or rectifier (a person who blends, refines, or purifies distilled spirits or wines); the wholesaler or rectifier may sell only to a wholesaler or to a retailer; the retailer may sell only to the consumer. With specific exceptions, no person may sell outside the three-tier system and no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale.

This bill creates an exception to allow a manufacturer or rectifier to sell, or provide free taste samples of, directly to consumers, for consumption on or off the premises where sold, intoxicating liquor that is manufactured or rectified on the premises. Like the requirements that apply to the sale of alcohol beverages to be consumed on the premises where sold, this bill requires that the licensed person, or a person possessing an operator's license or manager's license, be on the premises whenever such sales are made. The bill also allows the Department of Revenue to regulate sales under this exception, but the regulations must be consistent with

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requirements that apply to “Class B” licensees (persons licensed to sell intoxicating liquor to be consumed on the premises, such as taverns).

Under current law, with certain exceptions, no owner, lessee, or person in charge of a public place may allow the consumption of alcohol beverages on the premises unless that owner, lessee, or person in charge holds the appropriate license or permit. A “Class A” license authorizes the license holder to sell intoxicating liquor, including wine, at retail for consumption only off the licensed premises. One exception to the licensing requirement authorizes a “Class A” licensee to provide two wine taste samples of not more than three fluid ounces each, free of charge, for consumption on the licensed premises between the hours of 10 a.m. and 6 p.m. However, municipalities may override this authorization and prohibit the provision of wine taste samples by “Class A” licensees.

This bill allows a “Class A” licensee to provide taste samples of intoxicating liquor other than wine of not more than one fluid ounce each, under the same circumstances and limitations that apply to the provision of wine taste samples.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 125.06 (13) of the statutes is amended to read:

2 125.06 (13) ~~WINE~~ INTOXICATING LIQUOR SAMPLING ON “CLASS A” PREMISES. (a) The
3 provision, free of charge, of wine taste samples of not more than 3 fluid ounces each,
4 ~~free of charge, or of taste samples of intoxicating liquor other than wine of not more~~
5 ~~than one fluid ounce each~~, by a “Class A” licensee to customers and visitors for
6 consumption on the premises. No “Class A” licensee may provide more than 2 taste
7 samples per day to any one person. This subsection applies only between the hours
8 of 10 a.m. and 6 p.m. Notwithstanding s. 125.07 (1) (a) 1., no “Class A” licensee may
9 provide taste samples under this subsection to any underage person. No “Class A”
10 licensee may provide as taste samples under this subsection ~~wine~~ intoxicating liquor
11 that the “Class A” licensee did not purchase from a wholesaler.

12 (b) Notwithstanding par. (a) and s. 125.10 (1), a municipality may prohibit the
13 provision of ~~wine~~ intoxicating liquor under this subsection.

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1 **SECTION 2.** 125.52 (1) of the statutes is amended to read:

2 125.52 (1) AUTHORIZED ACTIVITIES. (a) The department shall issue
3 manufacturers' and rectifiers' permits which authorize the manufacture or
4 rectification, respectively, of intoxicating liquor on the premises covered by the
5 permit. A person holding a manufacturer's or rectifier's permit may manufacture,
6 bottle or wholesale wine, pursuant to the terms of the permit, without procuring a
7 winery permit.

8 (b) 1. A manufacturer's or rectifier's permit entitles the permittee to sell
9 intoxicating liquor to wholesalers from the premises described in the permit.
10 Holders of rectifiers' permits may also sell intoxicating liquor rectified by the
11 permittee to retailers without any other permit. No Except as provided in subd. 2.,
12 no sales may be made for consumption on the premises of the permittee.

13 (c) Possession of a permit under this section does not authorize the permittee
14 to sell tax-free intoxicating liquor and wines brought into this state under s. 139.03
15 (5).

16 **SECTION 3.** 125.52 (1) (b) 2. of the statutes is created to read:

17 125.52 (1) (b) 2. Notwithstanding s. 125.09 (1), a manufacturer's or rectifier's
18 permit authorizes the retail sale and the provision of taste samples free of charge of
19 intoxicating liquor that is manufactured or rectified on the premises, for
20 consumption on or off the premises. The department may prescribe additional
21 regulations for the sale of intoxicating liquor under this subdivision, if the additional
22 regulations do not conflict with the requirements applicable to holders of "Class B"
23 licenses.

24 **SECTION 4.** 125.68 (2) of the statutes is amended to read:

