

ROB SWEARINGEN

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**Testimony for Assembly Bill 869
Assembly Committee on State Affairs
February 12th, 2020**

Thank you State Affairs committee members for allowing me to testify today on Assembly Bill 869, which is related to extending operating hours during the Milwaukee Democratic National Convention and Alcohol Permitting Package.

Assembly Bill 869 was drafted in collaboration with alcohol industry stakeholders to clarify some issues that pertain to Chapter 125. This legislation was drafted with the intent to address the issuance of alcohol beverage permits to Road America and for State Fair Park. In addition, the bill allows extended operating hours for licensed and permitted establishments state-wide from July 13th – 17th, 2020 during the Democratic National Convention. Furthermore, this bill creates a new permit that allows private event venues to remain in operation. This bill also extends winery hours from 9:00 pm to midnight as well as includes wineries to the list of establishments that can stay open for the Democratic National Convention.

This bill further explains the following five things:

1. Authorizes DOR to issue retail alcohol beverage permits for the Road America racetrack grounds. This bill authorizes caterers to make retail sales of alcohol beverages on racetrack grounds. The bill further establishes hours during which brewers may not make retail sales of alcohol beverages.
2. Authorizes DOR to issue alcohol beverage permits and provides an exemption that allows a caterer to make retail sales off its licensed premise during events held at State Fair Park.
3. Creates a \$750 annual private event venue permit issued by the Department of Revenue and prohibits the rental or lease of property for private events at which fermented malt beverages (beer) or intoxicating liquor, which includes wine and distilled spirits without this permit. This bill does not obstruct private event venues, but rather lets them remain in operation as they are currently and only under the provisions of Chapter 125.
4. Creates an exception allowing state-wide extended closing hours for licensed or permitted establishments during the time that the 2020 Democratic National Convention is held in Milwaukee. This bill also adds wineries to the establishments that can stay open during the state-wide extended hours for the DNC.
5. Changes the closing hours for wineries operating under a "Class B" license from 9:00 pm to midnight.

During the drafting process, a concern was raised by the craft beverage industry regarding the event venue permit on whether they would have to obtain this new permit and whether this new permit would hinder future business opportunities. We have addressed their concerns in the bill and requested a Legislative Council Memo clarifying whether a person holding a brewer's permit will be required to obtain an event venue permit to engage in conduct that is otherwise prohibited in this bill. As you will read in the Memo, the provisions of the bill related to private event venue permits do not apply to a person holding a brewer's permit because the bill exempts any property covered by a license or permit issued under Chapter 125, including property covered by a brewer's permit.

This bill has the support of the City of Milwaukee and the majority of the alcohol industry stakeholders including the Wisconsin Restaurant Association, Tavern League of Wisconsin, Wine Institute, Bowling Centers Association, Wisconsin Petroleum Marketers & Convenience Store Association and the Wisconsin Hotel and Lodging Association.

Again, thank you for hearing my testimony and I would be happy to answer any questions you might have.

DATE: February 12, 2020

TO: Chairman Swearingen and
Members of the Assembly Committee on Public Affairs

FROM: Wisconsin Farm Bureau Federation
Debi Towns, Sr. Director of Government Relations

RE: AB 869 Creating a private event venue permit by Dept. of Revenue (DOR)

Wisconsin Farm Bureau must oppose AB 869, and we would encourage the Committee to consider amending the portion of the bill that would require private event venues to be permitted by the DOR.

Our opposition to this bill is focused solely on the section *Private Event Venue Permits*. Farm Bureau is a supporter and advocate for agriculture tourism. This bill, as written, would essentially regulate event barns out of existence. These facilities are used for local weddings, family reunions, class reunions, and graduation celebrations. Often, these facilities represent quaint rural settings which have been renovated for repurposing of unique farm buildings. This has allowed the rural owner to provide an attractive site giving the space for private parties that are too large for a home. In some cases, it has also allowed the farmer-owner to supplement their farming income with a different revenue stream. This has been a good thing in this tight ag economy.

There are a-number-of exemptions noted in this section of AB 869, including tailgating at Badger and Brewers games, parties at vacation properties or in hotel suites or the local fish fry at the neighborhood Catholic church. Clearly, the intent of these exemptions is to protect the cultural tourism that Wisconsin is famous for. We would request that the promotion of Wisconsin Agriculture tourism facilities be viewed with that same lens.

Wisconsin Farm Bureau would be willing to work with the authors to amend this bill. Without amendment, however, we would urge the Committee to **oppose AB 869**.

Thank you for this opportunity to share our position.



State of Wisconsin • DEPARTMENT OF REVENUE

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<http://www.revenue.wi.gov>

Tony Evers
Governor

Peter W. Barca
Secretary of Revenue

Information Only Testimony on Assembly Bill 869 February 12, 2020 Department of Revenue

Thank you, Chairman Swearingen, and members of the Assembly Committee on State Affairs for hearing this bill today. We appreciate the opportunity to provide testimony for information only on Assembly Bill 869, which relates to creating new state issued alcohol permits and closing hours of certain alcohol beverage retailers and manufacturers.

We appreciate the bill before you today, which has some very important policies. The hours of operation extension for alcohol beverage retailers during the Democratic National Convention in Milwaukee this year is a critical opportunity for Milwaukee and the surrounding counties to capitalize on this event. This proposal has broad support from the business and civic community in Southeast Wisconsin. This will be a boon for businesses in the area and will help ensure that the convention is a success.

We understand there is some urgency around getting the racetrack permit issue addressed so the business can continue operating this summer uninterrupted.

The author's commitment to public safety is admirable and appreciated. We understand that there has been some compromise in addressing the issue of private event venues in this bill that is a good starting point for negotiation on how to balance protecting the public with the needs of established businesses in rural Wisconsin. That said, issuing this new permit is not an insignificant task for the Department of Revenue. Based on the numbers we've heard, there are over 200 wedding barns and countless more private event venues that may now require a permit if this bill becomes law. In order to ensure that we are doing our due diligence as we do with all other permits, we will need additional staff in order to meet this need in a timely manner. In addition to staff, we have complex computer systems that will need to be reprogrammed in order to issue the permits. We are developing our fiscal estimate now and will have it prepared for you in advance of the executive session on this bill.

We are grateful that the authors and cosponsors bringing this bill before you today have attempted to gain clarity for alcohol sales at State Fair Park. Currently, we believe that this bill is not necessary to allow the fair to continue this year uninterrupted as it has for the last 47 years. That said, we recognize that clarity about selling alcohol at state properties is desirable. Our plan has been to work through the summer to identify any other potential alcohol beverage sales issues on state property and recommend a solution. In addition, the system that has been outlined in this bill for permitting alcohol beverage sales at State Fair Park will exacerbate the staffing issue to what we've outlined above.

Thank you for taking the time to read this testimony. We appreciate your attention to this matter and doing your diligence to protect the public.

Wisconsin Legislative Council



Anne Sappenfield
Director

TO: REPRESENTATIVE ROB SWEARINGEN
FROM: Melissa ^{MLS}Schmidt, Senior Staff Attorney
RE: Exemptions to the Private Event Venue Permits Created by 2019 Assembly Bill 869
DATE: February 10, 2020

You have asked whether a person holding a brewer's permit will be required to hold an event venue permit in order to engage in conduct that is otherwise prohibited under 2019 Assembly Bill 869, unless a person holds an event venue permit created by the bill. 2019 Assembly Bill 869 relates to creating a private event venue permit; retail alcohol beverage permits for motor vehicle racetrack grounds and the State Fair Park; closing hours for certain alcohol beverages retailers and wineries; and hours for retail sales by brewers. For reasons set forth below, the answer to your question is "no." Under 2019 Assembly Bill 869, a person holding a brewer's permit is not required to hold a private event venue permit in order to engage in conduct that the bill prohibits unless the person holds an event venue permit.

PRIVATE EVENT VENUES CREATED BY 2019 ASSEMBLY BILL 869

2019 Assembly Bill 869, among other things, creates a private event venue permit, issued by the Department of Revenue (DOR), that authorizes a property owner to rent or lease real property for use as a venue for a private event at which fermented malt beverages ("beer") or intoxicating liquor (distilled spirits or wine, hereinafter, "liquor") is consumed. The bill also prohibits a person from renting or leasing real property to another for use as a venue for a private event at which beer or liquor is consumed unless: (1) the person holds the private event venue permit; and (2) the consumption of the beer or liquor occurs on the property covered by the private event venue permit.

Persons Eligible to Hold a Private Event Venue

The bill contains a list of eligibility criteria that must be satisfied in order for a property owner to be issued a private event venue permit by DOR. Specifically, the bill states that a private event venue permit may not be issued for premises covered by **any license or permit** issued under ch. 125, Stats. (the Alcohol Beverages Chapter). This provision of the bill prohibits DOR from issuing a private event venue permit to a person holding any of the following licenses or permits: (1) any retailer license or permit to retail sell beer or liquor; (2) any wholesaler permit to distribute beer or liquor; or (3) any permit to manufacture beer or liquor, including a brewer's permit.

Prohibition on Private Events on Property Not Covered by a Private Event Venue

As mentioned above, the bill prohibits a person from renting or leasing real property to another for use as a venue for a private event at which beer or liquor is consumed unless the person holds the private event venue permit and the consumption of the beer or liquor occurs on the property covered by the private event venue permit. The bill provides a list of properties that are exempt from this prohibition. One of the exemptions is for **any property covered by a license or permit** issued under the Alcohol Beverages Chapter. This includes property covered by a brewer's permit.

CONCLUSION

The provisions of the bill related to private event venue permits do not apply to a person holding a brewer's permit because the bill exempts any property covered by a license or permit issued under the Alcohol Beverages Chapter, including property covered by a brewer's permit. In addition, the bill specifically prohibits DOR from issuing a private event venue permit to premises covered by any license or permit issued under the Alcohol Beverages Chapter, including property covered by a brewer's permit.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

MS:jal

DATE: February 12, 2020

TO: Chairman Swearingen and
Members of the Assembly Committee on Public Affairs

FROM: Wisconsin Farmers Union
Kara O'Connor, Wisconsin Farmers Union

RE: AB 869 Creating a private event venue permit by Dept. of Revenue (DOR)

Wisconsin Farmers Union opposes AB 869 as currently written. WFU urges the committee to eliminate the portion of the bill that would require private event venues to be permitted by the Department of Revenue.

There has been tremendous growth in agricultural tourism and interest in rural event venues in the past several years. Wisconsin Farmers Union welcomes this avenue for rural economic vitality and the opportunity for farms to diversify their income streams by hosting events in repurposed farm buildings.

AB 869 would impose a heavy regulatory burden on these venues. Wisconsin Farmers Union respectfully asks the committee to remove the *Private Event Venue Permits* section from the bill, or add on-farm event venues to the list of other venues that are exempt from the requirement to obtain a permit from the Department of Revenue.

Thank you for the opportunity to provide testimony on this bill today.

Please also see the attached Wisconsin Farmers Union information sheet,
“Supporting Rural Entrepreneurship”



RURAL ECONOMIC DEVELOPMENT SUPPORTING RURAL ENTREPRENEURSHIP

The Wisconsin economy has rebounded from the low of the Great Recession, but the economic recovery has been uneven. Most of the job and income gains have occurred in urban areas of the state, while rural areas have not seen the same level of recovery.

Fostering New Businesses is Key to Economic Growth

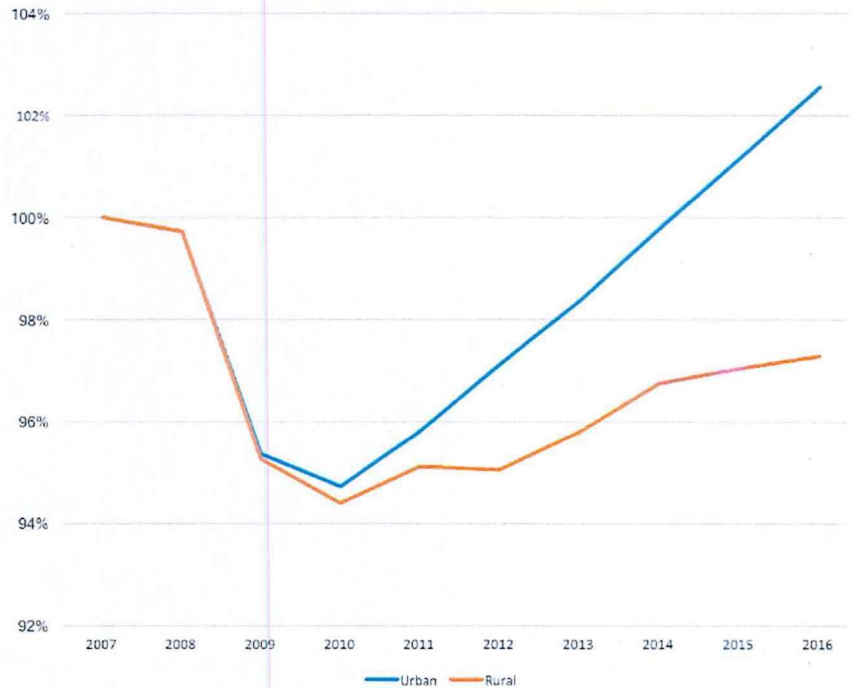
We need new businesses to help fuel our economy, especially in rural areas. Since the end of the Great Recession, Wisconsin's rate of sole proprietorship growth has averaged 1.26%, nearly a full point below the national average. Professor Steven Deller from the UW Department of Agricultural and Applied Economics explains why this is a concern:

"Research has shown that net job growth comes from business start-ups, or entrepreneurship. Unfortunately, Wisconsin has one of the lowest new business formation rates in the nation, adjusted for the population size of the state. If new business formation is vital to economic growth and Wisconsin has a very low rate of business start-ups, we can expect modest rates of employment growth."

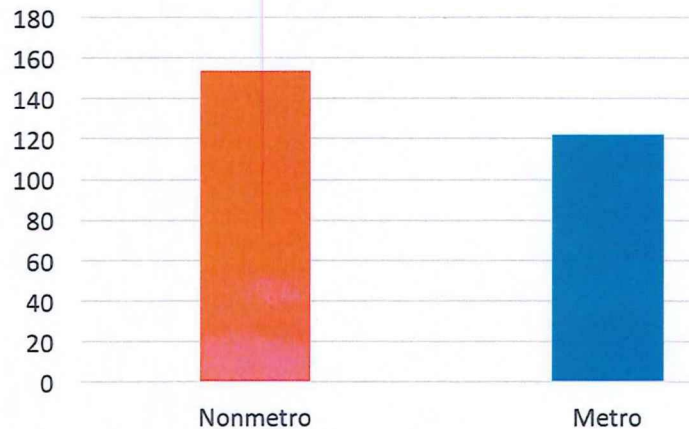
Entrepreneurship is a Strength of Rural Wisconsin

Rural Wisconsin shines when it comes to business start-ups. According to UW Economic Development Specialist Tessa Conroy, *"Entrepreneurship seems an especially promising strategy for development in rural communities which are surprisingly entrepreneurial. Rural counties have both more proprietors and higher business survival rates compared to urban areas."*

Job Growth Index
Wisconsin, 2016



Proprietorship Per 1000 Residents,
Wisconsin, 2016



Graphs source: Tessa Conroy, Economic Development Specialist, UW-Extension, The Rural-Urban Divide in Wisconsin: Informing Economic Development, 2018 UW Ag Economic Outlook Forum.



Wisconsin Agricultural Tourism Association

6014 County Road TT ♦ Marshall, WI 53559

608-235-5925 ♦ director@wiagtourism.com

www.wiagtourism.com

Date: February 12, 2020

To: Chairman Swearingen and
Member of the Assembly Committee on Public Affairs

From: Wisconsin Agricultural Tourism Association

RE: AB 869 Creating a private event permit by Dept. of Revenue (DOR)

The Mission of WATA is to educate, advocate and support members (Farmers and Farm Families). WATA has a strong nine -member Board of Directors. We work collaboratively with UW Extension, Department of Tourism, Department of Agriculture Trade and Consumer Protection and with the National Farm Medicine Center.

WATA Agricultural Event Venues are 100% compliant with Chapter 125. Chapter 125 Agricultural Event Venues also have limited liability under ACT 269 Wisconsin Agricultural Tourism Limited Liability Law. ACT 269

Alcohol beverage retail licenses are required for a location in which a sale of alcohol beverages takes place. OR whenever consumption of alcohol beverages occurs at a public place.

A location is not a public place at times when a private event is held at the location where attendance at the event consists solely of personally invited guests known to the host of the event. Examples of private events include traditional wedding receptions, birthday parties, family reunions, holiday parties for employees, and similar gatherings. A person hosting a private event where consumption of alcohol beverages occurs is encouraged to keep an invitation/guest list, and to continually monitor attendance at the event to make sure that only people who were personally invited to the event are present at the event location.

Example 9: A couple rents a local barn for their private wedding reception. The barn is not an alcohol beverage retail licensed premises. The couple purchases all alcohol beverages from an alcohol beverage retail licensee. Only invited friends and family may attend the reception, and alcohol beverages are served free of charge to these guests. Neither the couple nor the barn owner are required to hold an alcohol beverage retail license for the barn during the wedding reception.

Wisconsin Agricultural Tourism Association opposes AB 869.

Sincerely,
Sheila Everhart
Sheila Everhart, President
sheilageverhart@gmail.com
(608) 774-1354

Explanation of the Self-serving Untruths Contained in the Document Titled “Wedding Barns; TLW Position”

Circulated by Pete Madland, Executive Director of the Tavern League of Wisconsin

The following is a point-by-point rebuttal of the haphazard generalizations and blatant untruths contained in the above referenced document.

The character of this document is typical of those that seek to ‘divide and conquer’ by creating illogical aggregations and generalizations so as to distract and confuse the reader.

It should be evident on even casual reflection that most of these ‘concerns’ are ‘grasping at straws’ to create the appearance of legitimate problems where none exist. Further, they have nothing to do with alcohol, with separate functional areas being regulated by various local, regional, state, and federal laws, ordinances, and building codes.

The single issue that is relevant in this discussion is compliance with Wisconsin Statutes for alcohol consumption at private events, as administered by the Wisconsin Department of Revenue. A corollary issue is, ‘Are there any social problems that can and should be solved by changing Chapter 125?’ The answer is a resounding NO!

Tavern League Statement	WATA Rebuttal
<p><u>UNLICENSED WEDDING BARNs:</u></p>	<p>There is no such thing as an ‘unlicensed wedding barn’. There are many local municipal, county and state ordinances and laws that affect each business and require compliance with applicable ordinances, laws, zoning codes, fire inspections, commercial building codes, ADA accessibility accommodations, single-event permitting requirements, etc. Aggregating all of the ‘issues’ identified in the left column—excerpted from the above document—and acting as if they were legitimately related to whether the venue is required by Chapter 125 to have a Class B or C beverage license is patently illogical. There is ONLY one question to be dealt with by this Committee on Alcohol Beverages Enforcement and that is this: Is the venue in compliance with Chapter 125 in operating private events? This question has been answered precisely and forcefully by the testimony of WDOR Secretary Richard Chandler, and is articulated thoughtfully by the memorandum of Senior Staff Attorney Melissa Schmidt in the memo referenced below:</p> <p>TO: MEMBERS OF THE STUDY COMMITTEE ON ALCOHOL BEVERAGES ENFORCEMENT FROM: Melissa Schmidt, Senior Staff Attorney RE: Items for Consideration Related to Alcohol Consumption at Certain Private Events DATE: August 15, 2018</p>
<ul style="list-style-type: none"> Do not have to obtain municipal alcohol license. 	<p>This is true. Class B and C liquor licenses are not required for private events. Some have them, but many venue owners <u>do not wish to be in the tavern business.</u></p>
<ul style="list-style-type: none"> Not subject to local ordinances other licensed premises are. 	<p>They are, in fact, subject to multiple ordinances such as zoning, fire inspections, DSPS building codes, sanitation requirements, noise ordinances, etc.</p>

<ul style="list-style-type: none"> • Are not required to purchase beer wine or liquor through a licensed wholesaler thereby dramatically undercutting licensed businesses. 	<p>These venues do NOT purchase alcohol, since they chose not to be in the business of selling and serving alcohol beverages. They wish to be in the business of operating grand outdoor-themed event venues, not taverns or traditional banquet halls.</p>
<ul style="list-style-type: none"> • Are not required to follow the state smoking ban. 	<p>Smoking bans are imposed on <u>categories of occupancy</u>, NOT on whether or not the venue has a Class B or C beverage license.</p>
<ul style="list-style-type: none"> • Do not have to have licensed bartenders. 	<p>Licensing bartenders is a local municipal matter, and is not required for private events where no alcohol is sold. Some AEVs opt to require licensed bartenders, and others do not. This is a private business decision and has nothing to do with having beverage licenses or not.</p>
<ul style="list-style-type: none"> • Do not have to follow the Americans with Disabilities Act. 	<p>This is patently untrue. ADA is a federal law and EVERYONE has to abide by it. It is enforced by federal officials.</p>
<ul style="list-style-type: none"> • Do not collect and remit state sales and excise taxes. 	<p>This is nonsense. No one is exempt from Wisconsin sales taxes. Venues collect and submit sales tax returns to WDR. Wherever the alcohol is purchased by the private parties, sales tax is collected as in any retail purchases.</p>
<ul style="list-style-type: none"> • Have no closing hours. 	<p>Each venue has published closing hours, and the typical closing time at AEVs is two hours earlier than tavern and banquet hall closing times.</p>
<ul style="list-style-type: none"> • Do not have to following (error in original document) fire code safety regulations. 	<p>Fire inspections are local municipal functions. They are implemented by local fire departments and typically involve two annual inspections.</p>
<ul style="list-style-type: none"> • Do not have to complete a food safety course. 	<p>No business that does not prepare and serve food is required to complete a food safety course. Not paint stores, not clothing stores, not hardware stores, not taverns that do not serve food—need we say more?</p>
<ul style="list-style-type: none"> • Do not have to pay music royalty fees. 	<p>This is truly grasping at straws. AEVs don't sell or serve music. Visiting DJs and bands are in that support business, and it is their responsibility to abide by applicable laws.</p>
<ul style="list-style-type: none"> • Do not have to follow local ordinances related to licensed establishments. 	<p>AEVs have to follow ALL applicable local, state, and federal laws and ordinances for whatever activity they are engaged in that requires compliance.</p>
<ul style="list-style-type: none"> • Do not have to follow noise ordinances related to licensed establishments. 	<p>Everyone—businesses and private individuals alike—have to abide by local noise ordinances or face municipal citations. Taverns are the source of much nuisance in late hour noise incidents, but AEVs have no record of causing problems. AEV owners respect the quiet country settings their businesses are typically located in.</p>
<ul style="list-style-type: none"> • May not have proper commercial insurance. 	<p>No sensible business owner operates without insurance coverage commensurate with their own individual tolerance for liability and financial wherewithal.</p>
<ul style="list-style-type: none"> • Do not have to comply with provisions of Chapter 125. 	<p>AEVs, sometimes referred to as 'wedding barns', are fully in compliance with Chapter 125, WI Stats. And there are no social problems that relate to this new business model that can and should be solved by changing Chapter 125.</p>

Prepared by Stephen Nagy—Board member of the Wisconsin Agricultural Tourism Association and owner of Homestead Meadows, one Wisconsin's first Agricultural Event Venues, established in 1982.



When Must a Person Obtain an Alcohol Beverage Retail License?

Alcohol Beverage Laws

Fact Sheet 3111

revenue.wi.gov

This fact sheet provides information about whether a person must hold an alcohol beverage retail license. Alcohol beverage retail licenses are required for a location in which a sale of alcohol beverages takes place OR whenever consumption of alcohol beverages occurs at a public place. This fact sheet provides a more detailed explanation, including examples, of each of these instances.

The requirements described in this fact sheet also apply to retail permits issued by the department (vessels, sports clubs, public facilities and airports) (secs. 125.27, and 125.51(5), Wis. Stats.).

Do Sales of Alcohol Beverages Occur?

Any person that sells alcohol beverages must hold an alcohol beverage retail license describing the location where the alcohol is sold, unless an exception applies (secs. 125.04(1), 125.06, and 125.66(1), Wis. Stats.). Exceptions that may apply are found in sec. 125.06, Wis. Stats.

Example 1: A person owns a liquor store or tavern where alcohol beverages are sold. The person must hold an alcohol beverage retail license for the liquor store or tavern.

Example 2: The operator of a banquet facility sells alcohol beverages at the banquet facility to a couple. The couple will serve the alcohol beverages free of charge to guests at the couple's wedding reception at the banquet facility. The operator must hold an alcohol beverage retail license for the banquet facility.

Example 3: The operator of a banquet facility sells alcohol beverages directly to guests (e.g., cash bar) at a wedding reception at the banquet facility. The operator must hold an alcohol beverage retail license for the banquet facility.

Example 4: A person holds a party in their own apartment or house and sells beer to party-goers. The person must hold an alcohol beverage retail license for their own apartment or house.

See Fact Sheet 3110, *Selling, Donating, and Giving Away Alcohol Beverages*, for additional examples of sales of alcohol beverages.

If Sales Do Not Occur, Are Alcohol Beverages Consumed in a Public Place?

A person that owns, leases, or is in charge of a public place must hold an alcohol beverage retail license describing the location where the alcohol beverages are consumed, unless an exception applies (sec. 125.09(1), Wis. Stats.). This means consumption of alcohol beverages on property open to the public is prohibited unless the owner, lessee, or person in charge of the public place, possesses an alcohol beverage retail license (*Eichenseer v. Madison-Dane County Tavern League, Inc.*, 2008 WI 38, para 57).

A location may be a public place at certain times of the day, week, month, or year, and may not be at other times. A location is not a public place at times when a private event is held at the location where attendance at the event consists solely of personally invited guests known to the host of the event. Examples of private events include traditional wedding receptions, birthday parties, family reunions, holiday parties for

employees, and similar gatherings. A person hosting a private event where consumption of alcohol beverages occurs is encouraged to keep an invitation/guest list, and to continually monitor attendance at the event to make sure that only people who were personally invited to the event are present at the event location.

Example 5: A bank holds an event during business hours and gives free glasses of wine and appetizers to all persons who come into the bank. The bank must hold an alcohol beverage retail license for the location where alcohol beverages are consumed, because the bank is open to the public during the event.

Example 6: A person hosts a party at their home. A public announcement is made on social media that the entire county is welcome to join the event and have a free alcohol beverage. The person must hold an alcohol beverage retail license for the location where alcohol beverages are consumed, because their home is open to the public during the party.

Example 7: A car dealership has a holiday party for its employees after it is closed to the public. The dealership purchases alcohol beverages for service to employees free of charge during the holiday party. The dealership must purchase the alcohol beverages from an alcohol beverage retail licensee (e.g., liquor store that holds a "Class A" license or tavern that holds a "Class B" license). The dealership is not required to hold an alcohol beverage retail license for the location where alcohol beverages are consumed, because the dealership is closed to the public during the holiday party.

Example 8: A person hosts a private wedding reception in their own yard, and only invited friends and family attend. Alcohol beverages are served free of charge to the invited guests. The person is not required to hold an alcohol beverage retail license for the location where alcohol beverages are consumed, because their yard is closed to the public during the wedding reception.

Example 9: A couple rents a local barn for their private wedding reception. The barn is not an alcohol beverage retail licensed premises. The couple purchases all alcohol beverages from an alcohol beverage retail licensee. Only invited friends and family may attend the reception, and alcohol beverages are served free of charge to these guests. Neither the couple nor the barn owner are required to hold an alcohol beverage retail license for the barn during the wedding reception.

Can a Retail Licensee Own or Operate an Unlicensed Building or Space Where Alcohol Beverages Are Consumed?

Existing "Class B"/Class "B" retail licensees may own or operate unlicensed buildings or spaces that are rented to persons seeking to hold private events where alcohol beverages are consumed. In addition to all other requirements explained in this fact sheet, the unlicensed building or space must be separated from the licensed premises by walls and/or doors and must have a primary entrance from the outside (sec. 125.32(3m), Wis. Stats). The retail licensee may not store alcohol beverages at an unlicensed building or space.

Alcohol beverage licensees may not allow persons to bring alcohol beverages ("BYOB") onto the licensed premises for consumption, regardless of whether the premises is open to the public. See [Fact Sheet 3105, Alcohol Beverage Carry-Ins](#).

Example 10: A restaurant owner holding a "Class B"/Class "B" retail license is given municipal approval to revise the description of his/her existing licensed premises to remove a banquet hall from the premises description. The restaurant owner may rent the unlicensed banquet hall to a person who will host a private event where only personally invited guests known to the host are allowed entrance to the banquet hall. Alcohol beverages may be provided by the host, free of charge to their invited guests (no cash bar) because the banquet hall is not a public place at the time of the event.

Note: Alcohol beverages purchased by the host cannot be brought onto the restaurant's licensed premises.

Example 11: A tavern owner that has a "Class B"/Class "B" retail license purchases or leases a vacant building to rent for private wedding receptions, but does not obtain a "Class B"/Class "B" retail license for the

building. The tavern owner may rent the unlicensed building to a person who will host a private event where only personally invited guests known to the host are allowed entrance to the building. Alcohol beverages may be provided by the host, free of charge to their invited guests (no cash bar) because the building is not a public place at the time of the event.

Other Requirements

Alcohol beverages served and consumed at a location that does not hold an alcohol beverage retail license must have been purchased in a face-to-face sale at a licensed premises (secs. 125.272, and 125.51(6), Wis. Stats.). For more information, see Fact Sheet 3110, Selling, Donating, and Giving Away Alcohol Beverages.

The rental of a facility may be subject to Wisconsin sales and use tax if the facility is used for an amusement, athletic, entertainment, or recreational purpose. For more information, see Sales and Use Tax Fact Sheet 2107, Rentals of Multipurpose Facilities.

Additional Information

If you are unable to find answers to your questions on the department's website about alcohol beverage retail license or permit requirements, you may email, write, or call the department.

- Visit our website:** revenue.wi.gov
- Email:** DORAlcoholTobaccoEnforcement@wisconsin.gov
- Write:** Wisconsin Department of Revenue
Alcohol & Tobacco Enforcement
P.O. Box 8933
Madison, WI 53708-8933
- Telephone:** (608) 266-6701
- Fax:** (608) 261-7049

Published March 20, 2019

Homestead Meadows Farm

YOUR PLACE IN THE COUNTRY!

W7560 Spencer Road—Appleton, Wisconsin 54914-9128
www.homesteadmeadows.com

Phone: (920) 205-4200

February 12, 2020

Dear Members of the Assembly Committee on State Affairs:

As an owner of an agricultural event venue that has hosted more than 6,400 events since 1981, I want to register my opposition to 2019 Assembly Bill 869. There are eight reasons for my opposition to this bill. Assembly Bill 869:

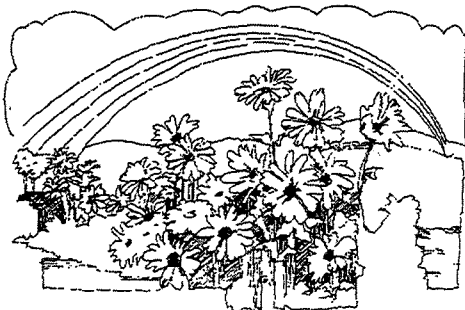
1. panders to the special interests of members of the Tavern League of Wisconsin.
2. is brought forth by the past president of TLW who, in addition, is the owner of a supper club, creating a double conflict of interest.
3. seeks to impose a haphazard collection of unrelated regulations on a variety of Wisconsin's hospitality businesses.
4. does nothing to improve the quality of life for Wisconsin residents.
5. will not eliminate any existing social or economic problem experienced by the people of Wisconsin.
6. creates barriers for innovative businesses while protecting the interests of legacy businesses that have refused to respond to evolving customer preferences.
7. imposes costs of permits, licenses, and additional insurance for businesses that have created no problems that can be solved by such new measures.
8. interferes with free enterprise, the foundation of our Nation's economic system.

I am an immigrant from communist Hungary. I grew up experiencing the oppressive effects of a system where well-connected government officials manipulate the system to their own advantage.

It makes my heart heavy to see what is becoming of the greatest country on earth. The USA is becoming a place where money and influence finances politicians and buys laws.

Take a trip to Cuba for a first-hand lesson on what happens when a few well-connected people determine what's best for all, while benefiting from a rigged economic system.

Don't let it happen to Wisconsin under your watch.



Sincerely,

Stephen M. Nagy

For the Nagy Family – Arlene, Steve Jr., Jon,
Kiersten, Zach, Michael, Tom, Cara, Anaisa,
Hayden, Sienna, Alexia, Kaitlyn and Samantha

Kendall Breunig

From: King, Georgeann M - DOR <Georgeann.King@wisconsin.gov>
Sent: Thursday, November 29, 2018 12:07 PM
To: Kendall Breunig
Subject: RE: Liquor License law interpretation

Hello Kendall, thank you for your comments. WI Alcohol & Tobacco Enforcement is aware of AG Schimel's "informal" opinion about wedding barns and private event venues. As of now, WI-A&T opinions regarding these types of events has not changed.

The sale of alcohol beverages requires a license and pursuant to sec. 125.66(3), Wis. Stats., a person selling alcohol beverages without a license may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

Regarding the DOR position on license requirements at wedding barns and private events, this is the department's guidance:

- Consumption of alcohol beverages at private events, such as a wedding may occur at unlicensed premises, e.g., a wedding barn, with the wedding hosts providing alcohol beverages to their invited guests, provided there is no sale of alcohol beverages. Please confirm that there will be no "cash bar" and alcohol beverages will not be sold at the wedding.
- Sec. 125.04(1), Wis. Stats., provides that no person may sell alcohol beverages without a license, so sale of alcohol may only occur on a licensed premise
- "Sale" is broadly defined in sec. 125.02(20), Wis. Stats., as any transfer with consideration or transfer without consideration if made to evade law, or any shift, device, scheme or transaction for obtaining alcohol beverages. Therefore, any charge made directly or indirectly for alcohol beverages or a recovery of the cost is a "sale" and illegal without an alcohol beverage license.
- Additionally, sec. 125.09(1), Wis. Stats provides that 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
- To be considered a private event, the event may not be open to the public (not advertised or promoted on social media, or other means of public communication). There can be no sale of alcohol beverages, the wedding hosts could only provide alcohol beverages without charge to the wedding guests.
- Secs. 125.272, and 125.51(6), Wis. Stats., require that alcohol beverages served and consumed at the wedding must be purchased in a face-to-face sale at a licensed premise, for example, a licensed caterer could sell alcohol beverages to the event hosts (the bride and groom) at the caterer's licensed premises. The caterer could then provide the purchased alcohol beverages for consumption at the private event, or the bride and groom could purchase alcohol beverages directly from a licensed retailer and bring the alcohol beverages to the wedding barn for consumption (not sale) at the wedding.
- a person serving alcohol beverages at a private party, such as a wedding, would not be required to hold an operator's license. Secs. 125.32(2), and 125.68(2), Wis. Stats., require licensed operators only at a "Class A", Class "A", "Class B", temporary "Class B", Class "B", temporary Class "B" or "Class C" licensed premises. If the wedding reception is held at a non-licensed premise like a wedding barn, the use of licensed operators is not required.
- The wedding barn operator's rental of the wedding barn for a wedding reception is a taxable sale, and the operator should register with the department and hold a seller's permit, collecting sales tax on the taxable sale of renting the wedding barn venue. Admission to dances held at a Dance Club would be another example of a taxable sale of entertainment requiring sales tax to be charged. See Fact Sheet 2107 Rentals of Multipurpose Facilities
- The wedding barn operator should ask their insurance carrier about the potential liabilities they may incur through their trafficking in alcohol beverages, and what protection will their insurance provide in such instances? Does a non-licensed business who traffics in alcohol beverages incur liability through their trafficking in these products, and what protection will their insurance provide in such instances?

- Sec. 125.04(13), Wis. Stats., provides that any person who violates sec. 125.04(1), by selling alcohol beverages without an appropriate license may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

I hope the above guidance is useful, but if you have any additional questions or concerns, please let me know.

Regards,

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From: Kendall Breunig [mailto:ken@sunsetinvestors.com]
Sent: Tuesday, November 27, 2018 10:39 AM
To: King, Georgeann M - DOR <Georgeann.King@wisconsin.gov>
Subject: Liquor License law interpretation

Georgeann

I had called in once before asking how the Black Swan at 309 N Water St could operate for 2 years without a liquor license. Something about a gap in the law.

The Wisconsin Attorney General has taken up that question and has written an interpretation of the law. His opinion is that you cannot call Wedding Barns or Event Halls Private to get around the liquor license law.

This is what the Black Swan is doing. They currently have two locations, one in Mequon and one in the Third Ward. They have now opened two more such locations in the Third Ward, without Liquor Licenses.

If your opinion is that this is legal, then I plan to open a couple similar spaces without liquor licenses.

Kendall Breunig

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Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Kimberly Montgomery
Director of Intergovernmental Relations

City of Milwaukee Testimony on AB869 Relating to: creating a private event venue permit issued by the Department of Revenue; the issuance by the Department of Revenue of retail alcohol beverage permits for motor vehicle racetrack grounds and for the state fair park; authorizing caterers to make retail sales of alcohol beverages on racetrack grounds; closing hours for certain alcohol beverage retailers and wineries and hours for retail sales by brewers; and providing a penalty.

Assembly Committee on State Affairs
February 12, 2020

Chairman Swearingen and members of the Assembly Committee on State Affairs, my name is Jim Bohl and I am with the Intergovernmental Relations Division of the City of Milwaukee. I appreciate being able to testify today in support of AB 869.

While there are a number of measures in the bill which the City sees as beneficial, there is one specific issue that looms largest due to both the significance and immediacy of its impact—and that is 4 a.m. bar time for the 2020 Democratic National Convention (DNC). In the interest of time, I will restrict my comments to that.

The entire nation, indeed the world, will be focused on the City of Milwaukee during the week of July 12-16, 2020 as the City hosts the DNC. With the event, 50,000 visitors ranging from convention delegates and news media, to political observers and corporate leaders, will be visiting the City. Many of these guests will be new to the City and visiting Wisconsin for the first time. While the attention will largely be focused on DNC events in Milwaukee, individuals will be staying overnight in hotels from Kohler to Madison to Kenosha and beyond. In Milwaukee and many other places across Wisconsin where they will stay, visitors will eat, shop, and spend large amounts of disposal income in what is expected to inject \$200 million collectively into the State's economy.

Just as important as the economic impact generated during that short week is the impression made upon thousands of new guests to our state. These guests will represent opportunities to draw outside groups to future conventions here, to bring back their families for future vacations, and to expose the State to corporate interests that could lead to new job growth. Unlike other conventions or regular events that Milwaukee and Wisconsin host, the DNC is a primetime television event. Activities that accompany the convention in Fiserv Forum and in the surrounding area will not typically conclude until 11:00 pm or Midnight. That means that many of these visitors, who will be traveling long distances to hotels an hour or more from the City, will be looking to find opportunities to eat, drink, and discuss that day's activities in establishments at or near where they are staying late into the evening. And, a large amount of this activity will take place near the time in which bar service will be ramping up due to the State's 2 a.m. mandatory closing hour on weekdays. For this rare event, extending the legal bar

time to 4:00 a.m. on the evenings of the convention makes sense. Not only will this be meeting customer demand, but it will also enable countless Wisconsin restaurants, bars and hotels the ability to maximize visitor spending.

Extending the closing time to 4 a.m. is not a novel concept. Both Cleveland and Philadelphia, as host cities of the 2016 RNC and DNC events, extended bar closing hours to 4 a.m. during their respective political conventions. Like Charlotte, which is hosting its second major party political convention in eight years, the City of Milwaukee has already expressed a desire to bid on a future RNC event. The ability of Milwaukee and Wisconsin to meet and exceed the expectations of visitors attending the 2020 DNC event will play a determining factor in our ability to capitalize on future opportunities and revenue for our state.

In closing, the City believes AB 869 takes a common sense approach in addressing a number of alcohol related issues, not just for the DNC, but for another important event, the Wisconsin State Fair. It is for these reasons that the City supports this timely legislative action.

Thank you and I am happy to answer any questions you may have.



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**TESTIMONY OF THE WISCONSIN INSTITUTE FOR LAW AND LIBERTY
BEFORE THE ASSEMBLY COMMITTEE ON STATE AFFAIRS IN
OPPOSITION TO ASSEMBLY BILL 869**

Chairman Swearingen and Committee Members:

This written testimony is being submitted on behalf of the Wisconsin Institute for Law and Liberty. While we are unable to attend today's hearing in person, we are willing to follow up with anyone who may have questions regarding this testimony. Thank you for the opportunity to provide input on this legislation.

Assembly Bill 869 needlessly combines some "no brainer" issues with an unnecessary expansion of government regulation. Provisions relating to the new regulatory scheme applying to "private event venues" should be removed in their entirety. The public does not need them.

This new and unneeded regulation is the price that the public must pay for an extension of operating hours for restaurants during the DNC this summer. We have no opposition to that part of the legislation. In fact, it seems like a salutary bit of deregulation during a major event in downtown Milwaukee. These comments focus solely on the attempt to impose a heavy regulatory burden on successful small businesses and entrepreneurs in our state.

The unnecessary and objectionable part of the bill seeks to regulate "private event venues as taverns. As noted below, the bill does not make clear just who is subject to this new regulation – always a mistake in legislation – but we do know that none of these venues are allowed to sell alcohol. At a certain level, that's all we need to know. Regulating businesses who cannot sell alcohol in the same way as taverns is absurd. While we understand the desire of some taverns in our state to use the government to stamp out any potential competitor – including those who only allow persons to consume alcohol at a private event – the state ought not accommodate that desire.

Unfortunately for private event venues around Wisconsin, this legislation also includes vague definitions that provide little guidance and will be difficult for them to comply with, even if they want to pay the \$750 fee to operate their business as they have for years without issue.

Earlier attempts to protect the taverns in this way were noted for their unintended consequences. They would have banned tailgating, among other unseen consequences. This attempt tries to limit the proposal's anticompetitive impact but it comes up short. The term "private event" is not defined in the bill or in existing Chapter 125, and so it is unclear who is even going to be restricted by the terms of this bill. Does it include a Super Bowl party? A birthday party? A retirement party?

The bill, by its plain terms, does not apply to "vacation rental property, or any other property of temporary lodging that is used for overnight accommodations if the property is furnished with sufficient beds for all adult guest to sleep." Can a couple that rents a one bedroom cabin for a week bring their adult children and drink wine with dinner? Can they have a birthday party with friends and family? Host a family reunion for a day? What constitutes "sufficient beds"? These vague terms give no guidance or comfort to thousands of Wisconsinites who will be impacted by this proposal.

Further, while this bill attempts to fix the tailgating bans that were previously proposed, it still does not go far enough. Property "used primarily for parking" is exempt from permitting, as is property "within a local professional football stadium district created under subch. IV of ch. 229 *if the property is used in connection with, and on the same day as, a professional football game held at the football stadium*" (emphasis added). But what happens if someone wants to rent out their front lawn to park near Lambeau when the Badgers play Notre Dame this year? A lawn is not "used primarily for parking" and it would not be on the same day that a professional football game is held at the stadium.

But the problem with the bill goes beyond its applicability to vacationers and tailgaters. Why should a private event venue – a business that does not sell alcohol and is not open to the general public – have to be regulated as if it does both. The only reason is to make it harder for them to do business and to eliminate a form of competition. That is *not* a proper function of government.

The vagueness of this legislation is especially troubling because of the heavy-handed nature of the bill – anyone who violates these provisions is subject to arrest and seizure of their property, and faces jail time and fines.

Although we doubt it, it is possible that these problems could be fixed. But it is not going to happen if this new regulatory scheme is passed because it is the price having Milwaukee open for business during the DNC. These issues are all things that should be flushed out in separate legislation, properly debated on the merits.

Please remove the provisions creating licensing for private event venues before this legislation moves forward.

Thank you for your time, and again, please feel free to contact us should there be any questions.

Sincerely,

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