



DEVIN LEMAHIEU

SENATE MAJORITY LEADER

Senate Committee on Universities and Revenue
Testimony on Senate Bill 332 & Assembly Bill 304
August 17, 2023

Chairman Hutton and Members,

Thank you for hearing testimony on Senate Bill 332 and Assembly Bill 304, which make various changes to improve alcohol beverage regulation and further advance an already successful industry. The proposed legislation would add consistency across regulations for brewers, brewpubs, wineries and distillers/rectifiers and provide clarity to the existing three-tier system.

The stakeholders in the alcohol industry have worked for nearly a decade to come together to address inconsistencies and concerns with our state's alcohol regulations. SB 332 & AB 304 are the product of years of negotiations to form a historic compromise, gaining the collective support of twenty different industry organizations, many of which you will hear from today.

Under our existing alcohol beverage regulatory structure, Wisconsin has developed one of the most robust alcohol beverage industries in the country. Forbes magazine has highlighted that 3 of the top 25 cities in the country to launch a successful craft brewery are located in Wisconsin, (Madison (#2); La Crosse (#9); Milwaukee (#23)). Our craft beer production ranks 7th nationwide, producing over 1 million barrels of craft beer annually. We are also home to dozens of wineries and small winery cooperatives with over 50 small winery members. More distilleries are opening each year, and more than 40 established distilled spirit producers are already in business.

The economic impact of Beverage Retailers in Wisconsin is impressive:

- The direct retail sales of the beverage alcohol industry are responsible for \$8.52 billion in total economic activity
- Establishments that sell alcohol employ more than 140,000 people, and generate an additional 33,000 ancillary jobs
- Businesses selling alcohol, along with their supplier and ancillary industries, pay \$5.15 billion in wages and benefits each year
- The industry and its employees pay over \$1.19 billion in state taxes, and an additional \$1.59 billion in federal taxes

Senate Bill 332 and its companion would implement the following regulatory reforms to further encourage free market competition across the three-tiers:

1. Create a dedicated division at the Department of Revenue for the regulation of the alcohol beverage industry

2. Clarify and expand the permissible activities and abilities under production permits, including full-service retail sales at taprooms
3. Provide clarity on arrangements between producers for contract production of alcohol beverages
4. Make changes to taste samples and various other Chapter 125 provisions, providing consistency in retail license regulation
5. Implement reporting requirements for common carriers to combat illegal internet sales.

I ask you to support these bills which will allow an already dynamic industry to further grow, while ensuring the promotion of health, welfare, safety and competition.

Thank you for your time and I'm happy to answer any questions.



ROBIN J. VOS

SPEAKER OF THE WISCONSIN STATE ASSEMBLY

Chairman Hutton and members of the Senate Committee on Universities and Revenue,

Thank you for the opportunity to provide testimony in support of Senate Bill 332 which makes long overdue updates to our state's laws regulating the alcohol industry.

It's no secret that Wisconsin is known for our robust alcohol industry. It's an important piece of our state's history, culture and, most importantly, our economy. Wisconsin is home to a flourishing market of breweries, wineries, and distilleries, in addition to thousands of bars, restaurants, taverns, and grocers – all of which are impacted by our state's alcohol regulations.

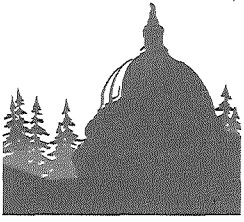
Beyond the effect these regulations have on so many in our state, we have also witnessed more recent changes in the market, like increases in craft breweries, small wineries, and new beverage products coming onto the scene. For these reasons, it's more important than ever to modernize our alcohol beverage laws for the 21st century to ensure future continued success for all those impacted.

It's not an easy feat to get those involved in our alcohol beverage industry on the same page, with many differing perspectives and interests, but this bill demonstrates a strong consensus and significant progress in accomplishing that goal.

This comprehensive piece of legislation will provide clarity and consistency across and within tiers; improve regulatory structures; create a new division dedicated to the education of, promotion of, and oversight and enforcement of the industry; and other needed updates to Chapter 125 of our statutes. Most importantly, this legislation will strengthen our overall beverage industry to ensure it can continue to prosper in the years to come.

I hope you all can join me in supporting Assembly Bill 304/Senate Bill 332, which passed with a strong bipartisan vote of 90-4 in the Assembly. This legislation provides a rare opportunity to act on good faith negotiations among the alcohol beverage industry.

Robin J. Vos
Speaker of the Assembly



ROB SWEARINGEN

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August 17, 2023

Senate Committee on Universities and Revenue

Testimony on Senate Bill 332 / Assembly Bill 304

Thank you, Chairman Hutton and committee members for considering Senate Bill 332 / Assembly Bill 304, a bill that is more than ten years in the making. After much deliberation, these bills comes before the committee with the widespread consensus of Wisconsin's alcohol industry. Members of each layer of the Three-Tier system agree that the following proposed legislative changes need to be made to our state's alcohol regulations:

I am joined by 90 of my colleagues in the Assembly in believing that this legislation represents a significant step forward in modernizing Chapter 125 while prioritizing public safety and economic growth for Wisconsin.

SB 322 / AB 304 addresses several key issues that have long hindered our state's alcohol industry and the Department of Revenue from enforcing important regulations.

By enacting this legislation, we can foster a more competitive and consumer-friendly marketplace, while ensuring that responsible alcohol consumption is upheld.

These changes align with the evolving needs and preferences of Wisconsin residents, making it easier for them to responsibly enjoy a wide range of alcoholic beverages.

Further levels playing field between distillers, breweries, and wineries.

Creation of the Division of Alcohol Beverages within the Department of Revenue to better enforce laws.

Streamlining processes like obtaining a bartender's license that can be used statewide

Increasing the DUI surcharge for the Safe Ride program by \$25.

I'd like to thank all those involved in the negotiations over the years and I'd like to especially thank Secretary Barca for his input throughout the process.

Lastly, I urge you, esteemed members of the Senate Committee on Universities and Revenue, to support and advance SB 322 / AB 304 unanimously. This legislation will not only drive economic growth and innovation but also enhance public safety and consumer choice. By modernizing our alcohol regulations, we can create a more vibrant and prosperous Wisconsin for all its residents.

Thank you for your time and consideration.

Summary of SB 322 / AB 304 Provisions:

- Creation of the Division of Alcohol Beverages
- Expands brewery winery and distillery retail sales / full-service taprooms
- Creates statutory framework for contract production
- Expands small winery cooperative wholesaler permit to include distilled spirits
- Clarifies hard seltzers as fermented malt beverages
- Creates public place and event venue regulations
- Creates uniform closing hours for retailers and producers
- Doubles brewpub production and self-distribution caps
- Removes cap on number of production permits for intoxication liquor
- Creates wine-only bars / remove certain class C wine license restrictions
- Increases the number of manufacturer's permits per legal entity
- Imposes common carrier and fulfillment house requirements
- Increases Safe Ride funding
- Requires Safe Ride program notification upon license issuance
- Standardizes hours of operation for nonretail activity
- Allows producers to bring alcohol beverages to licensed retailers to provide free samples
- Allows brewpubs to satisfy permit requirements through sale of beer from another brewpub
- Expands availability of winery permits to manufacturers and rectifiers
- Allows premixing of cocktails by Class B license holders
- Allows county wide transfer of Class B licenses
- Creates statewide alcohol beverage seller/server license
- Allows recapping bottles of wine
- Clarifies taxation of alcohol sales between producers
- Allows wineries to sell wine to other producers
- Modifies cross-tier restrictions to allow incidental and indirect interests
- Reduces penalty for retailer-to-retailer beer purchases
- Clarifies axe-throwing facility licensing
- Extends closing hours during Republican National Convention



Tony Evers
Governor

Peter W. Barca
Secretary of Revenue

Testimony on AB 304/SB 332
Peter Barca, Secretary of the Department of Revenue
August 17, 2023

Good morning, Chairman Hutton, Ranking Member Larson and members of the Senate Committee on Universities and Revenue. I appreciate the opportunity to provide testimony for information only on Assembly Bill 304 and Senate Bill 332, a bill to rewrite Chapter 125.

These companion bills provide a long-overdue rewrite of Chapter 125 and the creation of a Division on Alcohol Beverages in the Department of Revenue. This new division will oversee the regulation and enforcement of alcohol beverages and includes many new provisions, including the creation of 4 new permits (common carrier, fulfillment house, no sale event venue and statewide bartender); legalization and regulation of contract production agreements, licensing agreements, and alternating proprietorships for all alcohol beverage types; and creation of new off-site retail outlets. DOR is enthusiastic about much-needed changes in the bill to level the playing field between the various types of alcohol permittees, retain the three-tier structure, and bring the law in line with evolving industry practices.

The Department appreciates the opportunity we've had to provide input on key substantive aspects of the bill. We want to be a full partner in finalizing the language of Chapter 125 to ensure clarity in the law, avoid confusion for permittees, and ensure the new fees are used to the benefit of the alcohol industry, while at the same time maintaining DOR's high standards for customer service. However, **the limitations on the structure and size of the new division, and tight implementation dates in the bill would prevent the Department from providing timely customer service and fully enforcing the new law.**

It's important to note that without additional appropriation language, the new Division cannot be created as intended. Under the bill as introduced, the fees collected from the newly created permits would go directly to the general fund and not to the new Division of Alcohol Beverages. Additional language is needed to credit this fee revenue to an appropriation that would fund the new division. The Department would also need additional position authority to use the new revenue to fund the 20 positions transferred in the bill.

Even with additional appropriation language, there is not enough funding or positions to maintain existing and enhanced service levels. Managing the current 28 alcohol permits along with 4 new permits and 2 new monthly reports in the bill requires more work than can be accomplished by the 20 staff proposed in the bill while maintaining the same level of service. Significant resources are also needed to administer contract production agreements, off-site retail outlets, and new reports from fulfillment houses and common carriers. **The bill is estimated to generate \$4.7M in program revenue, which is enough to fund a new 25 FTE Alcohol Division. Based on experience and workloads, 25 positions are the minimum number DOR needs to set the division on a successful path. Alcohol industry stakeholders deserve to**

have the funds they generate through fees provide service and protection exclusively for them. These funds should not continue to lapse into the general fund, as the industry already pays many other general fund taxes.

Using the full amount of the fee-generated revenue on the new alcohol division would eliminate the need to transfer 8 desperately needed vacancies in the Division of Income, Sales and Excise Taxes (IS&E) to staff the new division. This would also retain the \$14M GPR annually that these 8 positions generate.

It bears repeating that all the program revenue generated by the proposed permit fees on the alcohol industry should be used to provide quality customer service to the permittees. **DOR does not want the alcohol industry to have to wait months for alcohol beverage permits because the division does not have adequate staff to process permits.**

The lack of resources in the new division also jeopardizes Wisconsin's substantial Tobacco Settlement Funds. Wisconsin received \$124.5M in settlement funds in FY22 alone. If the department fails to "diligently enforce" cigarette and tobacco laws, the tobacco companies could seek to reduce Wisconsin's annual allotment through arbitration, a tactic they have used in every eligible allotment to date.

The Department is asking for an additional GPR-funded agent to assist with diligent enforcement of cigarette, tobacco, vapor product and gaming laws. This is in addition to the 20 PR positions dedicated to alcohol enforcement in the new division. **Without an additional GPR-funded position enforcing tobacco laws, Wisconsin could lose its tobacco settlement funds. Missouri is currently facing that situation, so it is an important and real concern.**

Additionally, the Division structure required by the bill forces the Department to overfund management positions and underfund positions related to customer service because state regulations require each bureau director to have three direct reports. **DOR asks that the draft specify the functions of the new division without mandating the structure.** This flexibility could be accomplished simply by deleting the word "separate" in 15.433(2)(b), which is created by the bill.

Finally, the Department will not be able to create some aspects of the division and the new permits by the effective dates in the bill. With two exceptions, the bill contains an effective date of 4 months after publication. The Department needs more time to hire employees, organize the division, create forms and guidance, and implement computer programming for the multiple new permits and new reports. DOR originally asked for 15 months to adequately implement the significant changes in the bill. However, we believe **the Department can implement the bill in a year's time as long as we have interim authority to begin to stand up the new division before the division administrator is hired.** This interim authority would rest with the current administrator of the Division of Income, Sales and Excise Taxes, who currently oversees regulation of alcohol and tobacco laws. The ISE Division Administrator is a civil service position to ensure tax administration remains strictly nonpartisan.

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We realize that there are several provisions that the industry is eager to see activated, and we want to make a good faith effort to implement them sooner. **We identified 6 provisions – including the fermented malt beverage definition – that we could implement soon (the first day of the 5th month after enactment) without running afoul of complicated drafting issues.**

Thank you for the opportunity to testify on this important bill. The Department applauds the work done by the authors and the industry on this comprehensive rewrite. However, it is vital to the success of new Division of Alcohol Beverages that these concerns be addressed. This Committee, with all its good work in the alcohol field, is the perfect body to make these adjustments during the executive session on this bill.

I would welcome your questions or comments.

Wisconsin Department of Revenue
Comprehensive Alcohol Bill Analysis | AB 304
August 17, 2023

The Department wants to be a partner in legislation updating Chapter 125. This bill includes some much-needed changes to level the playing field between the various types of alcohol permittees and bring the law in line with evolving industry practices. However, the bill as written will prevent the Department from adequately implementing and enforcing the new law.

CONCERNS

Funding and positions

1. Without additional appropriation language, the new Division cannot be created as intended.

Under the bill as introduced, the fees collected from the newly created permits would go directly to the general fund and not to the new Division of Alcohol Beverages created by the bill because there is no appropriation in the bill. Additional language is needed to credit this fee revenue to an appropriation that would fund the new division. The Department would also need additional position authority to use the new revenue to fund the 20 positions transferred in the bill.

2. Even with new appropriation language, there is not enough funding to maintain existing and enhanced service levels

Even if the necessary appropriation is created, the \$2.5M PR appropriated in the bill does not adequately fund the new Division of Alcohol Beverages. The bill creates 4 new permits and 2 new monthly reports in addition to the 28 permits the Department currently administers. That is more work than can be accomplished by the 20 staff proposed in the bill and still meet DOR's high standards for customer service. For example, one of the new permits created by the bill is a statewide DOR-issued operators (bartenders) permit, which bartenders can choose to obtain instead of a local bartender's license. There are an estimated 30,000 bartender's licenses issued in Wisconsin by municipalities. Creating a new state-issued permit for this large group will require an extensive permitting operation, including background checks and appeals.

The new and existing permit fees will generate \$4.7M in program revenue, which is enough to fund a new 25 FTE Alcohol Division. In fairness, all the revenue generated by permit fees on the alcohol industry should be used to provide customer service to the permittees rather than skimmed off for other uses.

Additional staff and funding are needed to ensure permits are processed timely and appeals are handled efficiently. DOR does not want the alcohol industry to have to wait months because the division does not have adequate staff to process permits. It doesn't make sense to pass legislation to improve Chapter 125 and then fail to provide the resources necessary to make sure it works for the industry.

Remedy: Use the program revenue generated by the bill to fund a 25 FTE Alcohol Division

DOR recommends using the full amount of the program revenue generated (\$4.7M PR) to fund a 25 FTE Alcohol Division. Based on experience and workloads, 25 positions are the minimum number DOR needs to set the division on a successful path. Using the full amount of the fee-generated revenue on the new division would eliminate the need to transfer 8 desperately

needed GPR vacancies in the Division of Income, Sales and Excise Taxes (IS&E) to staff the new division. This would also retain the \$14M GPR annually these 8 positions generate.

3. Lack of resources dedicated to tobacco enforcement puts Wisconsin's Tobacco Settlement Funds at risk

The lack of resources in the new division also jeopardizes the substantial funding the state receives each year under the Master Settlement Agreement (MSA) with tobacco companies. Wisconsin received \$124.5M from the MSA in FY22 alone.

If the department fails to "diligently enforce" cigarette and tobacco laws, the tobacco companies could successfully reduce Wisconsin's annual allotment of MSA funds through arbitration. This is not an idle threat. The tobacco industry regularly challenges Wisconsin's MSA allocation. Industry representatives argued in the most recent arbitration that the staffing level of nine enforcement agents for alcohol, cigarettes, tobacco and vapor products is inadequate and does not diligently enforce Wisconsin cigarette and tobacco law. The fewer agents dedicated to tobacco enforcement, the more that argument will become a centerpiece of their case against Wisconsin.

As currently drafted, the bill leaves the department with only one dedicated GPR agent to enforce cigarette and tobacco laws statewide. The 10 enforcement staff that would be transferred from IS&E to the new division under the bill currently regulate both the alcohol and tobacco industries. To reduce the risk that Wisconsin could lose its tobacco settlement funds, an additional dedicated agent is necessary. The 2 GPR positions would also handle gaming enforcement as required by statute.

Remedy: Create 1 additional GPR special agent to concentrate on cigarette, gaming, vapor product and tobacco enforcement

Due to the concerns of the alcohol industry about using alcohol fee revenue to fund non-alcohol-related enforcement, the Department is asking for an additional GPR-funded agent for cigarette, tobacco, vapor product and gaming enforcement to assist with diligent enforcement of that law. This is in addition to the 20 PR positions dedicated to alcohol enforcement in the new division.

4. Lack of flexibility in the structure of the division means more resources for management and less for customer service

DOR supports the creation of the Division of Alcohol Beverages but does not support mandating the structure. State regulations require each bureau director in state government to have three direct reports. Therefore, by mandating three bureaus within the new division, the bill requires that a disproportionate share of funds go toward management positions instead of customer service and support. DOR asks that the bill specify the functions of the new division without mandating the structure so DOR could dedicate more resources to "boots on the ground" and less to supervisors.

Remedy: Give the Division Administrator more flexibility in structuring the new division

This flexibility could be accomplished simply by deleting the word "separate" in 15.433(2)(b), which is created by the bill.

Effective Date

1. DOR will not be able to create some aspects of the division and the new permits within four months as required by the bill

With two exceptions, the bill contains an effective date of 4 months after publication. (The sections of the bill relating to the No-fee Event Venue Permit and the consumption of alcohol in public places takes effect 10 months after publication.) DOR needs more time to hire employees, organize the division, promulgate rules, create forms and guidance, and implement computer programming for the multiple new permits and new reports.

Remedy: Allow the Department a year to implement the new permits and reports, while requiring some provisions to be implemented on the original 4-month timeframe

DOR had originally requested 15 months to implement the many extensive provisions of the bill. However, we understand the desire of the Legislature and the industry to set the changes in motion as soon as possible. We believe we can implement the bill in a year's time (13 months from the date of enactment) as long as we have interim authority to begin to stand up the new division before the division administrator is hired.

It typically takes at least 4 months to recruit, interview, vet and onboard a division administrator. Then, in addition, the candidate must be approved by the Senate. Without this authority, and pending the Senate schedule, the Department may have to wait 6 months or longer before it can take any action to set up the division. This interim authority would rest with the current administrator of the Division of Income, Sales and Excise Taxes, who currently oversees regulation of alcohol and tobacco laws. The ISE Division Administrator is a civil service position to ensure tax administration remains strictly nonpartisan.

We realize that there are several provisions that the industry is eager to see activated, and we want to make a good faith effort to implement them sooner than a year. We identified 6 provisions that we could implement soon (the first day of the 5th month after enactment) without running afoul of complicated drafting issues:

- Change the definition of fermented malt beverage to mirror the federal definition.
- Allow the transfer of retail liquor licenses between municipalities in the same county.
- Allow liquor licenses for axe throwing facilities and allow unaccompanied minors on the premises.
- Increase the amount of the Safe Ride Program surcharge.
- Allow the transfer of a beer wholesaler's permit to other locations within the state.
- Allow an opened, unfinished bottle of wine to be removed from a restaurant if it is uncapped in addition to being uncorked.

It's important to note that the Department will be able to implement many of the permits and other new innovations in the bill in less than a year. DOR just can't commit to implementing **all** the permits before then, especially when the rule-making process that precedes the development of new permits generally takes at least a year.

Ladies and Gentlemen of the Senate Committee of Universities and Revenue,

My name is Jean Bahn. My husband and I are farmers. My family worked hard to turn our empty barn into a place friends and community members could use for private gatherings and to preserve the barn for our childrens' use in the future. Wisconsin has a rich history of family celebrations on the family farm but these days few have a farm connection in the family and few live in a place that will accommodate large life celebrations. We fill a need and the desire that people have to reconnect to their rural roots. We support our rural community and help it to not just survive, but to thrive. We belong to several agricultural organizations, we donate to local benefits, and we offer free use of the barn for school activities like prom and FFA banquets where there is no alcohol involved. The local communities benefit greatly from the people who attend events here. They spend lots of dollars when they stay at hotels, eat at local restaurants or hire vendors like DJ's, caterers, photographers, bakers, florists, etc. My barn is not a public place like a tavern or restaurant. I am not zoned commercial. Like a rental home, apartment, or campground, I rent space on my private property for **private** gatherings. The renters provide food and refreshments to their guests, free of charge. I'm overseen and regulated by local authorities. My conditional use permit sets my hours, days of operation per year, parking, signage, etc. I don't sell or profit from alcohol in any way. I am not open multiple days a week for anyone from the public to stop in. I don't sell anything. I'm only seasonal per my conditional use permit.

Is a no sale event venue permit necessary? The law already says I can't sell alcohol since I don't have a liquor license. To have to buy a permit only to have my allowed number of events slashed down to one a month is absurd. What business survives on one customer a month, up to six a year? This "permit" is more like an annual penalty to those who don't want a liquor license and to consumers who utilize private event venues. The "one a month" restriction will create great difficulty in finding a private venue that's available and if they do, renters will not be allowed to serve their guests the refreshments that people have always been able to serve at their private parties in Wisconsin in the past. I don't know of another state in this country that regulates private event venues that don't sell alcohol through their alcohol laws.

This is excessive government intervention designed to disrupt and potentially destroy the private event venues consumers have come to love. There are no documented issues associated with event venues operating legally under current regulations as they have successfully without problems for many years. The proposed legislation related to event venues is a solution to a non-existent problem without any evidence to justify the change. There are places that would love to have a liquor license made available to them. Why force those who don't want it to get one? Having a liquor license means nothing if a conditional use permit won't allow that business. Other laws related to zoning, the financial challenges of implementing requirements of being a tavern and the presence of abandonment clauses in some municipalities could threaten the survival of seasonal venues if this legislation passed as is. I can't use a liquor license like a tavern. My conditional use permit says I have to close at 12am., not 2am. I can only operate May through October, bars can be open all year if they want. I am not open daily. I don't allow the public to just drive in. I require a renter who provides alcohol to their guests to provide a licensed bartender and to have host liquor liability insurance. And I have insurance. Safety is a priority.

I urge you to reconsider the event venue regulations and remove them from AB304/SB332. Wisconsin loses one farm a day. Farmers have a right to diversify and have the ability to prosper and succeed just like this legislation is giving to all the businesses in this bill who truly are part of the three tier system in that they either sell, manufacture or distribute alcohol. Private event venues do none of those things.

It's not too late. You have an opportunity here- I personally feel it's more an obligation- to promote economic freedom and to make not only members of the alcohol industry more successful, but to ensure farmers and rural areas of Wisconsin have the same chance to thrive and succeed.

Sincerely, Jean Bahn Farmview Event Barn, Berlin, WI. 54923



August 17th, 2023

Senator Rob Hutton
Chairman – Senate Committee on Universities and Revenue
Room 411 South
State Capitol
Madison, WI 53703

Re: SB 332 (LeMahieu) – Relating to Direct-to-Consumer, Common Carrier Language

Dear Chairman Hutton and Members of the Committee,

I am Jonathan Chowansky, Director of State Public Affairs for UPS covering the Mid-West Region. I appreciate the opportunity to be here today to discuss SB 332 as it relates to direct-to-consumer (DTC) shipping and common carriers. I am optimistic that you will find my comments will not alter the intent of the DTC and common carrier portions of the bill and that UPS is always willing to listen and collaborate.

UPS takes the shipments of regulated goods very seriously. Throughout our network, UPS handles high value shipments such as electronics and jewelry, healthcare critical packages such as vaccines and medication, and many regulated goods such as wine and liquor.

In its current form, SB 332 would require labeling and reporting requirements that would be very difficult to comply. To be more specific, our main concerns are:

- Labeling requirements: Including the permit number of direct wine shipper and permit number of the fulfillment house directly onto a UPS label is technologically prohibitive as well as creates security concerns.
- Reporting requirements: Common carriers can only report information that is entered on the shipping label. They are unable to report the brand, type of alcohol shipped, and number of bottles as we can only report the weight of box and what is on shipping label.
- Violations: We prefer that any violation language in the bill have the word “knowingly” added so that it’s clear we are in violation of the law if the common carrier knowingly ships alcohol in an illegal manner as opposed to an accidental shipment.

It is my hope that by providing insight on our current policies regarding shipping agreements, labeling, and final mile delivery requirements, will help you to understand our current requirements.

UPS Alcohol Shipping Policy Summary:

All shippers who wish to ship alcohol Direct-to-Consumer must enter into a UPS Shipping Agreement for Approved Shippers. *UPS does not accept shipments of alcohol from shippers who have not entered into one of these agreements.* Also, if a State Regulatory Agency wants to provide non-compliant license number holders to UPS, UPS can discontinue alcohol shipping service to that entity.

Furthermore, with the use of technology, UPS has a multi-layered approach to look for noncompliant shippers and packages. Packages identified with compliance concerns are returned to shippers and the shipper is charged a Prohibited Item Fee. Shippers who willfully violate UPS policies or regulations have their service suspended and contract cancelled.

Regarding final mile delivery, all alcohol shipments are made using the UPS Delivery Confirmation Adult Signature Required service, requiring the signature of adult 21 years of age or older ups on delivery. The age is confirmed by a trained UPS driver physically validating the consignees age on their driver's license. The driver is alerted through his Digital Acquisition Information Device (DIAD) that a signature is required as well as labeling on the package that reads, "Contains Alcoholic Beverages. Adult Signature Required. Recipient must be at least 21 years of age. Do not deliver to an intoxicated person. Do not driver or shipper release allowed."

Lastly, UPS willingly assists in law enforcement or other government investigations upon request.

There are well-established and appropriate measures in place to ensure UPS only ships wine to those who are legally able to so, and restrict minors from illegally accessing wine through direct shipment.

Sincerely,



Jonathan Chowansky
Director – State Public Affairs
UPS
609-929-8302
jchowansky@ups.com



August 17th, 2023

Senator Rob Hutton
Chairman – Senate Committee on Universities and Revenue
Room 411 South
State Capitol
Madison, WI 53703

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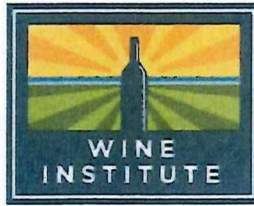
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There are well-established and appropriate measures in place to ensure UPS only ships wine to those who are legally able to so, and restrict minors from illegally accessing wine through direct shipment.

Sincerely,



Jonathan Chowansky
Director – State Public Affairs
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Geralyn Lasher
Director, Great Lakes States

August 15, 2023

Senator Rob Hutton
Chair
Senate Committee on Universities and Revenue
Room 313 South, State Capitol
Madison, WI 53707

Dear Chairman Hutton,

Thank you for the opportunity to provide comments on Senate Bill 322 and Assembly Bill 304. As a former Michigan Liquor Control Commissioner, I applaud the comprehensive efforts in these bills to increase safety and prevent underage access to alcohol. The Wine Institute is very supportive of the goal to stop illegal shipments of alcohol into the state of Wisconsin, but we would like to ensure that legal wine shipments continue.

Unfortunately, as the bill is currently written, it could end all **legal** direct-to-consumer shipments of wine into Wisconsin. Our members have been legally shipping their products to consumers in Wisconsin for many years and follow statute and reporting rules very closely.

The California Wine industry has a \$2.7 billion economic impact annually in Wisconsin, representing 22,000 jobs and over \$880 million in annual wages and benefits. California wineries pay over \$332 million in local, state, and federal business, excise and personal taxes in Wisconsin.

Our areas of concern focus on the common carrier and fulfillment house portions of the bills as well as labeling requirements that would be inconsistent with other states, new penalty provisions, and requiring in-state agents.

Wine Institute members work closely with our common carrier partners at FedEx and UPS and while they will provide their own testimony, our concern is that as the bill was introduced and passed in the Assembly, common carriers would be unable to comply with the numerous requirements it would impose. Wine Institute members use these common carriers to legally ship their direct-to-consumer orders so if common carriers are unable to operate in Wisconsin due to onerous requirements, DTC shipping to Wisconsin customers could end.

UPS and FedEx have stringent existing policies calling for shippers to enter into shipping agreements if they wish to ship alcohol and have clear labeling requirements and delivery standards to prevent delivery of alcohol to people under the age of 21.

Common carriers can only report information that is entered on the shipping label. They are unable to report the brand and type of alcohol shipped as they can only report weight of box and what is on shipping label. Wineries, common carriers, and fulfillment houses can provide

tracking numbers, which allows an easy way to triangulate any package shipped into the state to ensure that all three of the parties have filed appropriate reports and that taxes are being paid on all legal shipments.

In Michigan, as an example, the direct shipper licensee pays applicable excise taxes to the Liquor Control Commission on a quarterly basis and each quarter must report total amount of wine by type, brand and price shipped to consumers in Michigan during the previous quarter. This is an effective way to ensure the liquor agency receives the information from the direct source as opposed to the common carrier.

The Wine Institute works with a dozen states that regulate fulfillment houses and we think some of these may be helpful examples that could apply in Wisconsin. North Dakota, for example, requires a fulfillment warehouse that intends to prepare shipments into the state on behalf of a direct shipper licensee must first receive a logistics shipper license from their Tax Commission and pay an annual fee of \$100. Licensed logistics shippers are required to file monthly reports and a winery holding a direct shipper license is responsible for ensuring that any fulfillment warehouse they use holds a logistics shipper permit and must provide the name and license number of their logistics shipper(s) on their Annual Liquor Tax Report.

The bill also includes extremely broad language regarding penalties and potential revocation of licenses for violations in other states. This is inconsistent with what we see in the rest of the country and could be viewed as an overreach. There are also no caps on inspection costs, adding to the overall expense burden for wineries doing business in Wisconsin.

We are also concerned the bill indicates the need for in-state agents for wineries. The Wine Institute has worked with the Secretary of the Department of Revenue over the years to successfully implement a process for wineries to appoint an agent the department can communicate with without needing to be located in-state. This system has been working and we do not see the need to alter the current approach. Again, those operating legally will always comply by providing agent information.

Thank you for your time and willingness to work with us and our partners to ensure direct to consumer wine shipping can continue in the state of Wisconsin, while enhancing safety for Wisconsinites.

Sincerely,



Geralyn Lasher
Director, Great Lakes States

TO: Honorable Members of the Senate Universities and Revenue Committee

FROM: Maureen Busalacchi, Alcohol Policy Specialist

DATE: August 17, 2023

RE: SB332/AB 304 testifying for information only.

Good morning, Chairperson Hutton, Vice-Chair James, Ranking Member Larson and members of the Senate Committee on Universities and Revenue. Thank you for holding a public hearing on proposal SB 332/AB 304. It is my understanding that many businesses and organizations involved in manufacturing, distribution or retail sales of alcohol engaged in this proposal.

My name is Maureen Busalacchi. I am the Director of the Wisconsin Alcohol Policy Project (WisAPP). WisAPP is administered through the Medical College of Wisconsin's Comprehensive Injury Center and funded by the Wisconsin Department of Health Services: Division of Care and Treatment Services.

I am speaking for information only today, as an alcohol policy specialist, on Senate Bill 332. My professional views are my own, and I am not speaking on behalf of the Medical College of Wisconsin.

The backdrop of changes to alcohol manufacturing, distribution and retail sales should also recognize the burden of excessive alcohol use in Wisconsin. Increasing production, locations for sales and changing regulations increase access to alcohol and will likely change alcohol consumption. Source: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3860569/>

A headline in the [Wisconsin State Journal](#) said, "[State in 'death grip' of alcohol](#)". Please, take a minute to understand the toll of [excessive alcohol use](#), especially in how binge drinking affects the risk of injury, disease and death in our state.

Many aspects of this bill will increase availability, access, and affordability of alcohol in this state.

- Wisconsin consistently [ranks at the bottom of the nation](#) for excessive alcohol use.

On top of this, Wisconsin has seen dramatic increases in death rates related to alcohol consumption. The jump of 25% in alcohol-attributable deaths from 2019 to 2020 is alarming. Equally concerning is the fact that the death rate has not come back down to pre-2019 levels. Source: <https://www.dhs.wisconsin.gov/alcohol/deaths-county.htm>

Alcohol-attributable deaths [far exceed opioid related deaths](#) and there's a great deal of resources, funding and strategies to prevent opioid deaths. There is not such an effort in our state for preventing overconsumption of alcohol. Alcohol over consumption kills more than

twice the number of people in our state than opioid overdose deaths. In 2021, it was 3,207 for alcohol and 1,427 for opioids. These tragic deaths are preventable. Sources:

<https://www.dhs.wisconsin.gov/alcohol/deaths-county.htm> and

<https://www.dhs.wisconsin.gov/opioids/dashboards.htm>

In 2022, alcohol killed 3273 people. Of those deaths, 1774 were acute – meaning they happened from fatal injuries, poisoning, suicide, homicide, falls, drowning, etc. Prevention of both excessive alcohol use and misuse of opioids should be a top priority for our state.

Excessive alcohol use covers four aspects:

- Binge drinking defined as consuming four or more drinks on an occasion for women and five or more drinks on occasion for men.
- Heavy Drinking is defined as eight or more drinks per week for women and fifteen or more per week for men.
- Any alcohol use during pregnancy
- Alcohol use by anyone under 21.

Please note that nationally, 89% of binge drinkers do not have an alcohol use disorder. In other words, we can reduce binge drinking in our communities, it is NOT all about people with an Alcohol Use Disorder. Source: https://www.cdc.gov/pcd/issues/2014/14_0329.htm

One in five deaths for people aged 20 - 49 is attributable to excessive alcohol use.

[https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2798004?utm_source=For The Media&utm_medium=referral&utm_campaign=ftm_links&utm_term=110122](https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2798004?utm_source=For%20The%20Media&utm_medium=referral&utm_campaign=ftm_links&utm_term=110122)

- Furthermore, most of these deaths are **not** from alcohol-related motor-vehicle crashes. In fact, nationally, 85% of alcohol-attributable deaths are not from motor-vehicle crashes. Source: Centers for Disease Control and Prevention. *Alcohol-Related Disease Impact (ARDI) application*. 2014. Retrieved from https://nccd.cdc.gov/DPH_ARDI/default/default.aspx. [Google Scholar]

Resources, enforcement, and prevention are critical to reduce excessive alcohol consumption as it is the **fourth leading** preventable cause of death in our country. Currently, Wisconsin does not directly invest in comprehensive excessive alcohol use prevention.

Source: <https://www.thecommunityguide.org/search/?query=alcohol&dpage=1>

As you look at making changes to the alcohol environment in our state, please consider the impact more alcohol that is accessible and available will have on our communities, our law enforcement, our health systems, and our children. Excessive alcohol use causes many deaths, injuries, and loss of productivity. Our employers pay a steep price for the binge drinking that occurs in our state. According to Wisconsin's Burden of Binge Drinking report, employers lose \$2.6 billion annual in lost productivity related to binge drinking.

And 22% of adults in Wisconsin indicate binge drinking in the past month compared to 16% of adults in the US. <https://www.dhs.wisconsin.gov/scaoda/adhoccommitteereports.htm>

I would be remiss if I did not also mention underage drinking rates in our state continue to outpace the nation. Source: <https://www.dhs.wisconsin.gov/alcohol/youth-use.htm> They have dropped over the last decade, which is good news. However, our kids do not see alcohol as a risky behavior when compared to other states. Source: <https://www.dhs.wisconsin.gov/alcohol/index.htm> And it is critical that enforcement of minimum age drinking laws occurs regularly and across the state. Source: <https://www.thecommunityguide.org/resources/what-works-preventing-excessive-alcohol-consumption.html>

Alcohol Age Compliance Checks (AACC) are currently not funded by Federal or State government. There is no increased enforcement for local law enforcement agencies indicated in the bill. AACC's are an excellent tool to ensure our children do not have easy access to alcohol via a retail establishment. It is binge drinking in the teen years that can lead to issues later in life, especially the use of other substances, including opioids. Source: <https://www.cdc.gov/alcohol/fact-sheets/alcohol-and-other-substance-use.html>

The alcohol laws we have in Wisconsin were developed for important reasons. Making changes without thoroughly considering all the implications of increasing access and availability may well be dangerous and even deadly for our citizens and costly to law enforcement and employers. If you consider anything regarding what I am saying today, making alcohol more accessible in a state that already struggles with premature death, injury and disease related to excessive alcohol consumption will have a grave impact on our state.

Thank you.

Maureen Busalacchi
608-335-0005
mbusalacchi@mcw.edu



Mulberry Lane Farm, Inc.

W3130 County Road B
Hilbert, WI 54129
(920) 989-3130

www.MulberryLaneFarmWI.com

Hello. I'm Bonnie Keyes from Mulberry Lane Farm. We are a children's petting farm and wedding barn venue located 3 miles east of Sherwood at the northern tip of Lake Winnebago in Hilbert, WI. (attached)

When we opened in 2005 our mission was to educate school children about farm animals through hands-on, interactive guided tours of our farm. Our field trip business continued to grow until the 2009 recession hit. Our growth stalled when schools began to cut field trips from their budgets. (attached)

Therefore, we needed to diversify and barn weddings became the answer to bring in much needed revenue.

We went to our county to request they include hosting **private, invitation only events** to our petting farm's CUP (Conditional Use Permit). After providing proof of insurance, a fire inspection, and meeting other requirements our request was unanimously approved by the Calumet County Board.

Today we host on average 15 **private, invitation only** events a year. (attached) As each guest arrives, they are greeted by a Mulberry staff to confirm they are there for each specific couple's wedding.

We do not purchase, sell, serve or profit from alcohol served to the wedding guests free of charge by the wedding couple.

If the proposed bill AB 304/SB 332 passes as written, all this will change for us because we are given two options.

Option 1: Get a liquor license.

For my husband and I, this isn't an option.

1. Selling liquor is against our personal belief. Yet, we would be forced to go against our belief to remain in the wedding barn business.
2. Our farm is over 100 years old, and we have limited resources that hinder our ability to make the required investments to qualify as a tavern.
3. We are first a children's petting farm. To allow semi-trucks to deliver liquor while hundreds of school children are on the property, and to house said liquor on property where children play, is not and never will be a business decision we could bring ourselves to make.

Option 2: Get a No-sale event venue permit.

Since option 1 is out, we will be forced to apply for the no-sale event venue permit which would limit us to operating no more than six days per year, and a maximum of one day per month. With such a cut in revenue it will have a great impact on our ability to keep our educational petting farm open and to continue school field trips.

Since obtaining a no-sale permit is our only possible hope I'll conclude with two questions regarding this permit.

1. If you feel the proposed no-sale permit works for 6 events, why would not the same no-sale permit be adequate for 26, 66, or even 106 events a year? Why was six chosen as the magic number? How can any business operate if the government tells them they are limited to only being open six days per year? The only reason I see is because a very strong special interest group knows our business can't survive hosting only 6 events a year and will be happy to see us disappear.
2. If you feel the proposed no-sale permit works for wedding couples to serve free of charge beer and wine to their guests, why would not the same no-sale permit be adequate for the wedding couple to serve their guests spirits? Again, the only reason I see is the special interest group knows wedding couples won't book with us when they learn they can't serve spirits and again will succeed in seeing us close.

I conclude, regulate us if you must. If you don't feel the municipality that governs us now is doing an adequate job, then yes, make us pay for a no-sale permit. I'll be happy to pay the cost. But I humbly request you make the permit reasonable. As written, it will do exactly what the special interest group wants. It will force the small family run farm to close. Please, draft an amendment to eliminate the restrictions of 6 events a year/one a month **AND** to include the ability of our wedding couples to serve their guests a traditional WI Old Fashion. Or better yet, eliminate from the bill all verbiage that places **private invitation only** events into a public place category.

As written, the proposed no-sale event venue permit does **NOTHING** to keep us a viable wedding barn venue. (attached)

Thank you for your consideration.



Bonnie Keyes
co-owner
Mulberry Lane Farm, Inc.

08/17/2023

Mulberry Lane Farm, Inc.
Petting Farm & Wedding Barn Venue



Mulberry Lane Farm

Field Trips Since 2005



Barn Weddings Since 2010



Rural Wisconsin never looked so good!



Thank you Senate committee for the opportunity to express my concerns.

My name is Greg Schauf and I am the fourth generation of our family farm, three miles north of Sparta. Currently living on the farm with Carol, my 85-year old mother (who has lived on the farm for 60 years), I am the owner of a wedding barn called Country Reflections. "Cherish the Experience" is my tag line.

Historically my great-grandfather moved his family from Bear Valley, Wisconsin, to Sparta in 1907 because he desired a better Catholic education for his family. Like many farms, changes and modernizing took place over the next century so that it could better support the family and make life easier. My dad once said he became a farmer because it was easier to work with cattle than to work with people. Ironically, later in life, he became the President of the Sparta Area school board because he believed in the importance of being part of the community. Following my dad's footsteps, I knew that carrying on the family farm was what I was meant to do. All my life experiences growing up there, along with its history and stories told to me by my dad, the farm had become part of my soul – something that money can't buy.

In 1982, Dad's knees were getting bad, so I came home from college to join Dad in running the sixty-cow dairy. Over the next 30 years, dad endured many joint replacements, various other surgeries and health issues. But because of my deep conviction to keep the farm going, it kept him going as well.

We were always open to the community—hosting two county-wide dairy breakfasts, annually having visits from schools so kids could experience and learn a little bit about where some of their food comes from and gain an appreciation for the land. There were additional visits from other groups and visitors as well. I recently had a wedding where the bride chose my place because of her memories of coming there as a little girl to see a farm. She felt a connection.

In 2009 we received the Century Farm Recognition from the state of Wisconsin. Keeping a farm in the family is no easy feat. Dad was in his late seventies and starting to deal with cancer. Because of our herd size, it was not realistic to hire help or bring in another family member. So in 2011, the decision was made to sell the herd—now a common story for America's Dairyland. Preserving our family farm and its history has always been the fire in my soul. I can find no greater dignity in life.

With an interest in learning about wedding barns, I reached out and received advice and encouragement from other wedding barn owners and started Country Reflections in 2018. I have taken a big risk and borrowed heavily against the farm. Wanting to do things the right way, I have a state approved building plan, learning much about codes in the process. The wiring is all completely new from a licensed electrician. The bathrooms are also new from a licensed plumber. Everything is handicap accessible.

Preserving the land has always been my deepest desire. Because of the venue, there's been enough cash flow to afford expensive legal fees to create a trust for the farm which includes a conservation easement to preserve the rural integrity of the land forever. Something that is good for Wisconsin and its environment.

The redefining of a public place and the creation of a no-sale event venue permit definitely has the flavor of a hidden agenda. Even though weddings are private parties, in today's world, the family and the venue are already assuming a liability risk and buying insurance. Safety is already an awareness.

In my five years of being a venue owner, I've come to realize people will travel great distances for a wedding. Last week alone I had license plates from Illinois, Iowa, Minnesota, and Michigan. I also talked to one person from Texas. They buy food, gas, stay in hotels and pay taxes on it. They do not come here because of restaurants and taverns but they may enjoy them and the beauty of Wisconsin while they are here.

I've also come to realize how our society has changed and many couples do not come from the same area anymore. They are simply looking for a central location that is best for their families and friends. If barns in Wisconsin decline because they can't get a liquor license, this creates more opportunity for neighboring states and puts Wisconsin at a disadvantage. Just last week a former dairy farmer from Galena, Illinois, stopped in for the second time in two years to get ideas. He is slowly transitioning his barn to having weddings simply by word of mouth. The demand will not go down because there are fewer barns in Wisconsin. People will look elsewhere. Along with the decline of barns there would be a tremendous loss of sales tax which is now generated from the booking of weddings.

Wisconsin is no longer America's Dairyland as we knew it. But by removing language from the bill that harms event barns, it is a win-win for Wisconsin. It helps to preserve our history, continues to help Wisconsin be a destination which in turn creates a trickle down effect for many small entrepreneurs in our community.

Thank you and may wisdom be our guide.

My name is Pamela Pennington. My husband and I own Bridle Barn and Gardens

Our farm dates back to the early 1860's and my family has owned it for 55 years. It began with growing corn and alfalfa, and raising horses.

As the years went by, and after my parents passed, the decision of what to do with the farm fell to me. I knew I could never sell the farm so it would be up to me to figure out a way to keep it. My goal was to create a small business that would support our farm's expenses and maybe...just maybe pay for a vacation each year. That was the moment that Bridle Barn and Gardens was created.

The barn which once stored hay to the ceiling- was bedecked with massive chandeliers awaiting the first dance of a newly married couple. Little did I know then that soon we would be hosting families from all over the world-Ireland, Australia, and France just to name a few.

Our business generates millions of dollars for the local community. We create revenue for thousands of hotel rooms, caterers, florists, musicians, as well as our staff who are like family members.

We hold all types of events - but weddings are the most dominant. If you came to our farm today, you would see acres of gardens in bloom and you would see an empty barn with beautiful chandeliers.

Families rent our site to host their own private events. In doing so, they may bring in their own food and beverages as long as they follow our rules and our rules are more strict than the state's rules.

We do not push, profit or peddle alcohol. Fundamentally we are in the real estate site rental business. Just like a rented park shelter where you may have a private gathering and provide your own food and beverage-that is the business we are in.

We are not a restaurant, we are not a bar. We are not a supper club, we are not a banquet hall. Those businesses are alcohol profiteering ones. Those businesses buy alcohol and sell to the public.

Most seasonal venues cannot afford or even qualify to obtain expensive liquor licenses. Nor do they want them as we do not buy or sell alcohol.

Ask yourself...if AB304 is passed with no changes and the inevitable result will be the closing of our businesses and for some of us the loss of our farms...who are the businesses that will be left standing? Only the alcohol profiteering ones.

I think WI residents should have a choice. An entire business sector (that of wedding receptions) should not be monopolized by one business type.

And remember my business hope ten years ago? To pay our farm's expenses and maybe take a vacation each year? Well, I'm still waiting for that vacation. But our small business does allow us to keep our farm in the family for yet another generation.

I ask you to remove the event venue regulatory changes and remove them from AB 304/SB 332.



To: Members of the Senate Committee on Universities & Revenue
Senator Rob Hutton, Chair

From: Bill Elliott, WHLA President & CEO

Date: August 17, 2023

Re: Support for SB 332

On behalf of the hundreds of Wisconsin Hotel & Lodging Association members across the state, we encourage you to support SB 332, which includes an extended bar time during RNC 2024.

The RNC Convention in Milwaukee poses an incredible opportunity to showcase the hospitality of Wisconsin. The event will bring 50,000 people from all over the United States to Wisconsin. The eyes of the world will be on our state.

Many of the convention attendees will need to travel 1-2 hours to their lodging accommodations, making Wisconsin's 2:00 am bar time too early for them to enjoy a glass of Wisconsin wine, beer or distilled spirit with their dinner or truly experience a Wisconsin supper club. It is important for the hospitality industry to meet the expectations and needs of our customers in a safe setting that is properly licensed to serve alcohol.

For some of the convention attendees, this will be their first trip to Wisconsin. We want them to see our beautiful state and want to return for a long-relaxing vacation with their families or to hold a corporate retreat, business meeting, conference or convention here.

The economic impact on Wisconsin of the RNC Convention is not just for a week in July 2024, but can impact our tourism economy for years to come. This is our time to shine, let's roll out the red carpet for our visitors.

There are also other aspects of this bill that will be beneficial to Wisconsin's hotels and lodging establishments, many of which I'm sure you'll hear about from others testifying today. This includes the language in the bill for Operator's Permit (or statewide bartender's license), as well as the provision for premixed cocktails.

We urge you to support Senate Bill 332. Thank you for your consideration.



2801 Fish Hatchery Road | Madison, WI 53713 | (608) 270-9950 | (800) 589-3211 | FAX (608) 270-9960 | www.wirestaurant.org

August 17, 2023

TO: Senate Committee on Universities and Revenue
Senator Rob Hutton, Chair

FR: Kristine Hillmer, President and CEO

RE: Support of SB 332/AB 304

Thank you, Chair Hutton and members of the committee, for the opportunity today to testify on behalf of our 7,000 member locations, of whom the vast majority have Class B or Class C alcohol licenses. The Wisconsin Restaurant Association (WRA) supports SB 332/AB 304, which makes substantial changes to Wisconsin's alcohol statutes. This bill contains many changes to modernize provisions in Wisconsin Statute 125, and also clarifies what is now only considered policy interpretations, makes some common industry practices legal and provides a more prominent place for alcohol law interpretation and enforcement at the state agency level. Here are provisions that the WRA would like to point that will help restaurants in Wisconsin:

- **Allows batching of cocktails.** The batching or keging of cocktails in bars and restaurants has become the industry norm across the country and here in Wisconsin. Employee shortages and the need for consistency, along with consumer demand for specialty, labor intensive or aged cocktails have driven the trend, which began prior to the pandemic. We all love that hand muddled Old Fashioned, but on a busy Friday fish fry, the ability to have a batch of precisely measured Old Fashioneds in a container or on tap not only ensure speedy service, but also ensures that proportions of ingredients are measured properly and served in the proper size. However, batching of cocktails in Wisconsin is considered rectifying and not allowed under Chapter 125 - and most of the industry is unaware they are breaking the law by doing so. This bill will make batching cocktails legal as long as the container or keg is properly labeled with name, ingredients, date mixed, name of person mixing and expiration date of 48 hours after mixing. Up to 5-gallon containers can be used and can be dispensed into a container of up to 72 ounces (such as a pitcher). This is a very important update to Chapter 125 that is much needed as the hospitality industry changes to meet consumer demands
- **Creates a statewide Operators ("bartenders") Permit issued by the state Department of Revenue that is accepted in all municipalities.** Many employees in the restaurant and bar business work for businesses with more than one location or they work two jobs for different employers. Often, the locations are in two different municipalities. In order for them to have supervisory roles in the establishments they would need to have Operators Licenses issued by different municipalities, which can be an expensive endeavor. By establishing a state issued Operator's Permit, this bill eliminates a server/bartender who works at restaurants in two different municipalities from having to pay for two separate licenses and the permit follows them wherever they work in the state
- **Allows Class B establishments in 14 counties in southeast Wisconsin to stay open until 4:00 a.m. during the 2024 Republican National Convention (RNC) in Milwaukee.** Similar to legislation introduced in 2019 for the 2020 Democratic convention, this provision will allow attendees to the convention who often do not get back to their convention hotels until after midnight or 1:00 a.m. in the morning to enjoy food and drink at local restaurants and hotels past the current 2:00 a.m. bar time. Our research shows that every major city and surrounding area that has hosted a nation convention in the past decades has at extended bar time to 4:00 a.m. (if it was not at that time already) to accommodate the convention goers and to allow hospitality businesses to thrive during those four days

- **Adds “recapping” to current wine recorking.** I am not sure how many committee members were in the Legislature when the “Merlot to Go” bill was passed that allowed establishments to “recork” a partially drank bottle of wine and allow the customer to take it home with them. AB 304 updates current law allowing customers to take home unfinished bottles of wine by either recorking or recapping the bottle, since more wines now come with caps instead of corks
- **Modernizes laws to support craft breweries, wineries, and distilleries.** Many restaurants find success from selling beverage alcohol from local craft producers. AB 304 provides greater clarity and consistency in regulations regarding craft producers and promotes their growth in their communities. Many of these craft businesses are tourism attractions as well and bring travelers to communities that also brings businesses to local restaurants/bars and hotels which is why WRA believes these changes are much needed
- **Creates a dedicated Division of Alcohol Enforcement in the Department of Revenue.** Over many years, the staff dedicated to educating on and interpreting alcohol law at the Department of Revenue has been diminished, either by choice of the department or by retirement. The creation of a Division of Alcohol Enforcement will provide more resources for law interpretation – and enforcement – at the state level, providing more clarity for retailers, manufacturers, wholesalers, and local municipalities
- **Removes felony penalty for purchasing beer from Class A retailer.** We have always thought is very strange that if after a busy Friday night, a restaurant/bar purchases a bottle of spirits from a local Class A retailer, because they ran out of it, they risk a fine of \$100. If a restaurant/bar currently purchases beer from a Class A retailer under the same situation, the penalty is \$10,000 and time in jail. AB 304 makes the penalty the same as purchasing wine and spirits - \$100, which is a much more reasonable penalty for the offense

We have also heard concerns from some groups regarding the special Class B license that event venues would need to acquire in order to serve beer, wine and spirits at events. We would like to point out that there are many ways that venues could achieve this goal, including working with a local restaurant or other establishment with experience in alcohol sales, to take on the role as license holder and agent for the venue. This can be done by leasing their designated bar area to the other restaurant, where in turn they can hold the license and be responsible for all adult beverage sales. This is a common practice in the hospitality industry, where the venue itself decides to just lease the area, rather than run the bar portion of the business itself. This may be a solution for many of the venues that have indicated they do not want to be in the “bar” business.

SB 332/AB 304 is a massive bill that has many other provisions that clarify or modernize alcohol law and is much needed for the hospitality industry in Wisconsin. We encourage its passage and swift implementation

The Wisconsin Restaurant Association (WRA) represents over 7,000 restaurant locations statewide and represents all segments of the restaurant and hospitality industry. Our membership includes food establishments of all types and sizes, such as seasonal drive-ins, supper clubs, diners, bars, locally owned franchisees, fine-dining, and hotels/resorts. Over 75 percent of our membership are independent restaurants or restaurant groups. Regardless of ownership type, all restaurants are the cornerstones of their neighborhoods and communities. Restaurants not only provide great food, drink, and hospitality, they support schools, teams, charities and churches with fundraising and donations. They provide meeting places to celebrate, mourn and organize, or just provide a safe, tasty meal for a busy family.

Testimony for Public Hearing

Senate Bill 332

To the Honorable Authors and Cosponsors of AB 304/ SB 332: Rep. Vos, Rep. August, Rep. Swearingin, Rep. Doyle, Rep. O'Connor, Rep. Emerson, Rep. Zimmerman, Sen. LeMahieu, Sen. Feyen, Sen. Testin:

I am David Muehl, and I own, along with my wife Betsy, Badger Farms, LLC, located in the Town of Cottage Grove, here in Dane County. We purchased the farm in 1996, and have added acreage since then, and now own just over 500 acres. All productive acres produce Reed Canary Grass, aka Marsh Hay, and we sell to landscape contractors, dairies and horse enthusiasts.

Back in 2003, we started restoring our barn, and in 2005 started using it as a meeting space for my CPA activities and farm. It did not take long for word of mouth referrals and weddings soon found us, and now we have been hosting life event celebrations for 18 years. Those include weddings of course (between 20 and 25 per year), but also graduations, anniversaries, proms, birthday parties, and celebrations of life. Renting out our facility has certainly saved our farm since weather can be so impactful to our crop and harvesting of same.

Some of these events request to have alcohol served, and since we do not desire to have a liquor license, the lessees provide their own liquor, but we require them to utilize an insured bartender service. Since the service does not get compensated on drinks sold, there is no inducement to keep selling drinks to enhance revenue. The bartender service does card guests, pushes bottled water to slow consumption, if need be, and will cut guests off. We do not want the drama of over-served guests.

This brings us to the two main points about the proposed legislation that I object to: number of events for wedding venues, and the redefinition of the term "public place". While we appreciate the work done to update the alcohol laws for market considerations, that is not the case for alternative event venues.

The proposed legislation in SB332 limits the number of events to 6 per year. Where did this come from? If we continue to desire not to obtain a liquor license, this will certainly obliterate our barn rental business. I have not seen or heard of any data driven conclusion on how the bill sponsors arrived at their number of 6 per year. I have also heard that the bill sponsors have the approval from all the affected parties. THIS IS A LIE. They have never approached the Wisconsin Agricultural Tourism Association, (WATA). I ought to know, I was the President of the Association for the last two years when they were allegedly drafting this legislation, and they never reached out to me. Therefore, the number they suggest is arbitrary and capricious.

The proposed legislation also included an inclusion of the term "public place" to apply to wedding venues. As such, most wedding barns are on private property, as are a lot of other properties not included in the redefinition, such as campgrounds or rental homes. The ironic part of the whole argument is that when there is a restricted attendance of an event at a public place such as a restaurant,

that event is usually posted as a "private party". So how can a private party, at a private property, suddenly become a "public place"? How in Webster's name can a miscarriage of the English language be tolerated?

Wisconsin Agricultural Tourism Association (WATA) Agricultural Event Venue Operators like myself are 100 % compliant with alcohol laws. We do not sell nor do we not profit from the sale of alcohol. I provide a private space for private events on private land. Like other private properties and public parking lots for tailgating are exempt, so should private event venues be exempt. Again, **remove all language pertaining to the creation of public place and event venue regulations. I am regulated by my local municipality - the Town of Cottage Grove.**

I urge the Authors and Cosponsors of AB 304 / SB 332 to amend the necessary parts of this proposed legislation, specifically to remove all language pertaining to the creation of public place and event venue regulations.

Your constituents will appreciate maintaining their freedom of choice.

Thank you.

Testimony of Phillip G. Molina: Still Point Flower Farm and SB 332

Thoughts on Public Places, the No-Sale Venue Permit and the Liquor License Quota Exemption
proposed within Senate Bill 332

August 17, 2023

Still Point Farm, LLC
W886 State Road 92
Brooklyn, WI 53521
phil@stillpoint.farm
608-630-1351

Thank you, Mr. Chairman and Committee Members,

My wife, Penny, and I operate Still Point Flower Farm down in Brooklyn. Our dream is to retire in our farm home someday, but like so many small family farms, we have found this dream elusive because our farm simply isn't sustainable on its cut flower production alone. A little over three years ago, I reached out to our county Zoning office to inquire about various activities that could help supplement our farm income. After some discernment, Penny and I chose to move forward with creating a unique outdoor Agricultural Event Venue situated amongst the flower gardens nestled away in the woods. Over these past three plus years, Penny and I have worked hard in partnership with the Green county zoning committee to enable our dream. I am very happy to report that just eight weeks ago today, on June 22nd, we were issued a Conditional Use Permit to operate our Seasonal Event Venue.

Unfortunately, our enthusiasm was short lived because on the Friday prior, we learned of this proposed legislation which would effectively shut us down just as we are finally able to get going. Specifically, this bill restricts us three ways.

1. First, our home is *private*. And we now host *private* events (like weddings) for the *exclusive use* of our guests and their *invited* guests. This is completely unlike a commercial establishment that is open fully to the

public. We are not. Yet, as written, this bill would re-define these private events as a Public Place and therefore make the consumption of alcohol illegal on our farm. This single re-definition changes everything and leaves us only two options: Get a liquor license or get a No-Sale Event Venue Permit.

2. Liquor license. Our small town, Brooklyn, has a quota of one liquor license and it's being used by a tavern that isn't going anywhere. According to our town board, we can pay the town a minimum of \$2,500 for the time and expense to search for one. Then, if an available license is found, we can then expect to spend another \$20,000 or more to secure it. This large expense is not an option for Penny and me and our seasonal venue. However, to enable *existing* Wedding Barn operators a chance to acquire a license more readily, the proposed legislation offers a short 60-day Quota Exemption application window. Unfortunately, although we have already hosted our first wedding, we have not been in operation for a full 12 months and therefore cannot meet the required criteria. So, under either scenario, a liquor license is not an option for Still Point Flower Farm.
3. Lastly, if our private home were to be re-defined as a Public Place, our only other option would be to acquire the proposed No-Sale Event Venue Permit. However, as written, this new permit would limit us to one (1) event per month up to a maximum of six (6) events per year AND outlaw distilled spirits. No business, let alone our small wedding garden venue can remain viable when allowed to operate only once per month up to no more than six times per year. Additionally, very, very few wedding couples opt for beer and wine only.

So, the bottom line is that if our private farm were re-defined as a Public Place, as the bill is currently written, we would not qualify for the liquor license quota exemption, nor would the No-Sale Event Venue Permit be a viable option. We would therefore be put out of business just as we are getting started. ...after working for over three years with our county to secure a Conditional Use Permit and creating our private wedding garden venue.

That having been said, Penny and I are actually NOT opposed to this bill. As written, it truly does level the playing field for many of those in the alcohol industry. For example, for the first time, breweries and wineries will be able to stay open late and serve a broad assortment of alcoholic beverages. What does this mean? It means that this legislation opens the door for these establishments to get into the event venue business! That's right! It allows them to compete directly with Wedding Barns. And this is good for the consumer, the providers and the state. Again, we support this. What we don't support is the language that simultaneously legislates Penny and me out of business, undermining the core principles of free and fair competition.

To this end, we have three recommendations and one request.

1. First, we respectfully request that all language associated with re-defining a Public Place to include Agricultural Event Venues that rent space for *private, invitation-only* events (like weddings) be removed from this bill.
2. Second, to make the proposed No-Sale Event Venue Permit viable, we request the limit of one (1) event per month up to no more than six (6) events per year be removed. Additionally, please eliminate the restriction of beer and wine only (allow distilled spirits).
3. Third, if neither of these two recommendations are adopted, then at the very least allow Agricultural Event Venue clients to cater alcohol (including distilled spirits) using a liquor licensed caterer with no constraints on the number of events allowed. This could easily work in conjunction with the No-Sale Event Venue Permit. In other words, the No-Sale Event Venue Permit would allow venue clients to carry in their own alcohol for up to six events but all other events would require the use of a licensed caterer.

Each of these three recommendations would allow Agricultural Event Venues like Still Point Flower Farm to continue operating without a liquor license.

Additionally, whether or not any of these recommendations are adopted, Penny and I ask that the Liquor License Quota Exemption be modified to allow new operators that are **already in operation** on the effective date of the bill (like Still

Point Flower Farm) an opportunity to be considered a “qualifying event venue”. Specifically, we request:

- Eliminate the criteria looking back 12 months OR modify it to include looking forward 12 months
- If the criteria for looking out 12 months is kept (backward or forward), we ask that the window for application be extended from 60 days to 6 months from the effective date of the legislation to give us a chance to meet these criteria since we just began marketing our venue.

That’s it. Again, Penny and I think it’s great to open up opportunities for breweries, wineries and others to get into the event venue business, but it’s not fair to legislate us out at the same time. Please don’t let this happen to us or any other family farm like ours that is just trying to survive.

Thank you for your consideration.

Respectfully submitted by:
Phillip and Penny Molina
Still Point Farm, LLC

MEMORANDUM

TO: Interested Parties

FROM: Mike Wittenwyler / Parker Conover
Godfrey & Kahn, S.C.

DATE: August 10, 2023

SUBJECT: Assembly Bill 304 / Senate Bill 332: Regulation of Event Venues (“Wedding Barns”)

Under current law, a person controlling a public place must hold a retail alcohol beverage license for that premises to sell or allow the consumption of alcohol beverages. Disagreement about what is a “public place” has resulted in certain event venues (frequently referred to as “wedding barns”) selling or allowing the consumption of alcohol beverages at the event venue without a retail license.

Assembly Bill 304 / Senate Bill 332 (the “Alcohol Beverage Legislation”) would clarify that event venues are required to hold retail licenses if they sell or allow the consumption of alcohol beverages. However, to assist currently unlicensed event venues, the Alcohol Beverage Legislation:

- Creates a no-sale event venue permit that would be issued by the newly created division (the “Division”) within the Department of Revenue (the “Department”) for event venues that do not sell alcohol beverages but allow their consumption on no more than six days per year, one day per month; and,
- Includes an exception to the current quota on “Class B” retail licenses for event venues that seek a retail Class “B” / “Class B” license to sell alcohol beverages.

Moreover, the Alcohol Beverage Legislation does not regulate any event venue that does not allow for alcohol to be sold or consumed on the property. And, the Alcohol Beverage Legislation does nothing to change current law on the use of a concessionaire which is always an option for an event venue owner that wants to delegate alcohol beverage sales to another party.

CURRENT LAW

Wisconsin generally requires that a person be “licensed” to sell alcohol beverages, or to allow their consumption, in a public place under their control. That is, Wisconsin specifically prohibits an owner or other person in charge of a “public place” from allowing “the consumption of alcohol beverages on the premises of the public place, unless the person has an appropriate retail license or permit.”¹

¹ Wis. Stat. § 125.09(1). There are exceptions for county parks, athletic fields, churches, municipalities, and certain clubs.

While the term “public place” is not defined in Chapter 125, an “event venue” generally open to the public for rent but rented for a specific private event and attended only by private invitees is nevertheless a “public place”.² In other words, if an establishment is held out to the public for the purpose of renting, then “regardless of whether [a] future event is open to the general public, or limited to an invited list of guests, the event venue still retains the overall character of a ‘public place’[.]”³

Accordingly, under current law, event venues are required to hold alcohol beverage retail licenses if alcohol beverages are to be consumed at any event on the premises.

REGULATION OF EVENT VENUES

The Alcohol Beverage Legislation:

- Clarifies that event venues are public places even if they hold events limited to invited guests;
- Creates a no-sale event venue permit; and,
- Provides a quota exception for event venues.

Public Place Clarification

Under the Alcohol Beverage Legislation, a public place includes any venue, location, open space, room, or establishment that is:

- Accessible and available to the public to rent for an event or social gathering;
- Held out for rent to the public for an event or social gathering; or,
- Made available for rent to a member of the public for an event or social gathering.

However, a public place does not include:

- A room in a hotel, motel, or bed and breakfast that is used for overnight accommodations;
- Certain furnished, temporary lodging rentals;
- Licensed campgrounds;

² Letter from Attorney General Brad Schimel to Rep. Rob Swearingen, dated November 16, 2018; *see* 80 Op. Att’y Gen. 218 (1992).

³ *Id.*

- A parking lot, driveway, or yard where vehicles may be parked on the same day as a professional or collegiate sporting event or other ticketed event open to the public, held at the football stadium or baseball park; or,
- Property near Lambeau Field or American Family Field.

Accordingly, most event venues would be considered public places and be subject to alcohol beverage licensure even if the events hosted there were limited to invited guests only.

No-sale Event Venue Permits

Under the Alcohol Beverage Legislation, the Division would issue no-sale event venue permits to event venues that are held out to the general public for rent on no more than six days per year, one day per month.⁴ With the permit, the person renting the event venue is allowed to bring their own beer and wine to the event for consumption by their guests. Accordingly, the no-sale event venue authorizes the venue to:

- Allow their renter or lessee to bring the renter's or lessee's own beer and wine onto the event venue and serve it to guests without charge;
- Allow the guests of the renter or lessee to bring beer and wine onto the event venue to be consumed without charge;
- Allow the renter or lessee to obtain a Temporary Class B license for the event and then sell beer and wine under that license; and,
- Allow the renter or lessee to contract with a licensed caterer for the caterer to provide beer and wine to guests at a hosted bar, without charge (no cash bar) at the event venue.

Importantly, this permit would not authorize the sale of any alcohol beverages or the provision or possession of intoxicating liquor – distilled spirits and wine – at the event venue.

Quota Exception: No-sale Event Venue Permits

Current law imposes a quota on the number of “Class B” licenses that a municipality may issue. The Alcohol Beverage Legislation creates a quota exception for the issuance of “Class B” licenses to qualifying event venues. Event venues meeting the following qualify for the quota exception and may be issued an “under quota” retail license even if the issuing municipality has met its quota:

- In the 12 months prior to the license application, the venue has hosted at least 5 events of 50 guests and received at least \$20,000 in revenue from renting or leasing the venue for these events;

⁴ See Assembly Bill 304 / Senate Bill 332 Section 96, proposed § 125.24.

- The venue is and has been in operation for the 12-month period preceding the license application;
- The venue has not been a retail licensed premises during this 12-month period;
- The venue owner provides documentation that the municipality in which the venue is located has reached its liquor license quota; and,
- The venue owner provides notice to the Division within 60 days after the Alcohol Beverage Legislation's effective date that the owner is applying for a "Class B" license and is not seeking a no-sale event venue permit.

A municipality may issue a "Class B" license under this quota exception only if the license application is received by approximately six months after the Alcohol Beverage Legislation's effective date.

CONCLUSION

In sum:

- Under both current law and the Alcohol Beverage Legislation, event venues are "public places" subject to alcohol beverage licensing if they sell or allow alcohol beverages to be consumed;
- The Alcohol Beverage Legislation creates:
 - A no-sale event venue permit for event venues that do not sell alcohol beverages but allow their consumption; and,
 - A limited exception to the current quota on "Class B" retail licenses so that event venues may obtain a "Class B" license notwithstanding whether the issuing municipality has met the license quota.

Please let us know if you have further questions or need any additional information.

29763634.1

Senate Committee on Universities and Revenue

August 17, 2023

2023 Senate Bill 332

**On behalf of the Wisconsin Beer Distributors Association and
the Wisconsin Wine and Spirit Institute**

Testimony of Mike B. Wittenwyler

Appearing today before the committee as outside legal counsel to both the Wisconsin Wine and Spirit Institute and the Wisconsin Beer Distributors Association.

- Have worked for nearly 25 years on alcohol beverage matters in Wisconsin, providing counsel to suppliers, wholesalers and retailers as well as those businesses that provide goods and services related to the industry.
- Member of the 2018 Wisconsin Legislative Study Committee on Alcohol Beverages Enforcement.

Senate Bill 332 – An Update on Regulating the Alcohol Beverage Industry

Senate Bill 332 is a long overdue, comprehensive update to Wisconsin's alcohol beverage laws.

- The proposed legislation would make various changes to improve alcohol beverage regulation and further develop an already successful industry.
- These changes add consistency across regulations for brewers, brewpubs, wineries and distillers/rectifiers and clarity to the existing three-tier system.
- The proposed changes also strengthen the overall alcohol beverage industry and regulatory framework by creating a new division dedicated to promoting and regulating the alcohol beverage industry.

Will briefly address four provisions of the proposed legislation but am available to answer questions on any aspect of the bill.

Alcohol Beverage Regulatory Body

Most states have administrative commissions or agencies dedicated to oversight of the alcohol beverage industry.

- These entities have staff familiar with trade practices and they play a more significant role in education – for industry participants, local governments, law enforcement and the general public.

- States without dedicated agencies typically have dedicated alcohol divisions or units structured within other, larger government departments.
- Wisconsin currently has neither.

Under the current structure, about a dozen employees within the Wisconsin Department of Revenue (“DOR”) handle alcohol beverage regulation in addition to their other subject matter responsibilities. As a result, there is no agency or employee dedicated solely to the education and enforcement of the state’s alcohol beverage laws and regulations.

This proposal would create a new Division of Alcohol Beverages within DOR to serve this function for Wisconsin. The Division would be charged with administering regulatory programs, promoting regulatory transparency, promoting statutory changes to create clarity, consistency and simplicity in alcohol beverage regulatory requirements and ensuring active, consistent enforcement of alcohol beverage laws.

- Create a Division of Alcohol Beverages dedicated exclusively to alcohol beverage education, regulation and enforcement. The Division and its staff would be located within DOR and part of DOR for budgetary and administrative purposes.
- The Division would be headed by a Division Administrator who would be appointed by the DOR Secretary, subject to Senate confirmation.
- The Administrator would be a full-time, salaried employee, appointed outside the classified service. The Administrator would have the authority to appoint and supervise staff necessary to carry out permitting, audit, education and enforcement duties. These staff would be appointed within the classified service.
- Staff reporting to the Administrator would include a director of enforcement, a director of legal education and community outreach and a director of legal services. All three positions would report directly to the Administrator.

The new Division’s statutory authority will derive from existing provisions in Chapter 125. Proposed legislation would not expand the Division’s substantive regulatory jurisdiction beyond DOR’s existing jurisdiction under Chapter 125. The legislation would not interfere with a municipality’s or district attorney’s existing jurisdiction under Chapter 125.

Interest Restriction Modifications

Under current law and guidance from Department of Revenue, individuals who are owners and employees of licensees and permittees are greatly restricted in any investment into an entity that is licensed or permitted in a different, restricted tier. The proposal would make several changes to the interest restrictions in state law by allowing incidental, passive investments, while ensuring independence among regulated entities across tiers. Unless there is a specific statutory exception, however, cross-tier ownership would be prohibited and the prohibition on cross-tier ownership would

apply to all producers, wholesalers and retailers of alcohol beverages regardless of subchapter and type of alcohol beverage product sold.

Specify Permissible Passive Investment Arrangements

Under the proposal, state law would be modified to make clear that minority, passive investments do not violate the cross-tier restrictions. The specify that:

- Individuals and entities subject to Chapter 125 on a license or permit (that is, individuals identified on a manager's or operator's license and individuals identified as an officer, director, member, manager or agent of a corporation or limited liability company holding a license or permit) would be considered "restricted investors".
- "Restricted investors" would also include any individual or entity holding more than a 10% ownership interest.
- The aggregate amount of ownership held by restricted investors could not at any time exceed 49% of the ownership of the entity in the other tier.
- No single restricted investor could hold more than a 10% ownership interest, including any passive or disregarded entities connected to the restricted investor.
- A restricted investor would be strictly limited to a passive investment and could not be involved in the day-to-day operations of the permittee/licensee or exert any control over such operations beyond their ability to vote as an investor.
- A restricted investor could not serve as an officer, director, manager, operator or agent of the licensee/permittee in the other tier.

To be able to monitor such investments, licensees and permittees would be required to disclose the ownership interest of any restricted investor to the department.

Nothing would limit or modify the ability under current law to have ownership or investments within a tier. For example, a person could hold an unlimited ownership in multiple breweries, distilleries or wineries at the same time. Similarly, a person could have ownership interest in multiple wholesalers, including both fermented malt beverage and intoxicating liquor wholesalers. And, a person could have an ownership interest in multiple retail licensees. The restrictions ownership and exception passive investments only applies to cross-tier ownership.

Exclude Real Estate Investments from Cross-Tier Ownership Restrictions

The proposed legislation would specify that the mere act of owning real estate is a permissible passive investment, even if that real estate is leased to a licensee or permittee. For example, if a brewery or restricted investor owns a building that also contains retail space, that space could be leased to a restaurant provided that the brewery does not have any day-to-day involvement in the restaurant or control over its operation. Similarly, a tenant could not be party to a licensing or exclusivity agreement or other arrangement with the landlord that would limit the tenant from operating in an arm's-length and independent manner. And, such restriction on day-to-day involvement, control or exclusivity would need to be included as a term in the lease using standard language contained in state law.

Allow Marital Property Agreements to Avoid Cross-Tier Ownership Restrictions.

Presently, the Department of Revenue does not recognize pre-marital agreements or other marital property planning documents as a mechanism to avoid cross-tier ownership restrictions. For example, a husband cannot own a brewery if his wife owns a bar even when there is marital property agreement in place.

The proposal would amend state law to recognize the use of such agreements to allow spouses to avoid triggering cross-tier ownership restrictions. The existence of such an agreement would need to be disclosed on any license/permit application and a copy provided to the clerk or department issuing the licenses or permit. The department also develop an affidavit to be signed by each individual swearing to a complete lack of involvement in the day-to-day operations of each respective business as well as a lack of control. Violation of this affidavit would be subject to penalty and license revocation.

Intoxicating Liquor Wholesaler – Limitation on Multiple Permits

Under current law, no person shall be issued more than two intoxicating liquor wholesaler permits.

The proposal would eliminate this limitation as intoxicating liquor wholesalers are already subject to bona fide wholesaler requirements.

Classification of Hard Seltzers

The Department has informally communicated to industry stakeholders that it believes hard seltzers are intoxicating liquors unless they contain malt and hops.¹

- Specifically, the Department considers hard seltzers not containing malt and hops to be wine – a type of intoxicating liquor – because these hard seltzers are made from sugar which is an agricultural product.

¹ “Alcohol beverages” are defined in current state law to include fermented malt beverages and intoxicating liquor. Wis. Stats. § 125.02(1). “Intoxicating liquor” includes both distilled spirits and wine.

“Fermented malt beverages” means in current law 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 percent or more of alcohol by volume. Wis. Stat. § 125.02(6).

“Intoxicating liquor” means in current law all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5 percent or more of alcohol by volume, which are beverages, but does not include “fermented malt beverages”. Wis. Stat. § 125.02(8).

“Wine” means in current law 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 not less than 0.5 percent nor more than 21 percent of alcohol by volume. Wis. Stat. § 125.02(22).

“Distilled spirits” is not defined in current law.

- The classification of hard seltzer – whether it is a fermented malt beverage or intoxicating liquor – is difficult given Wisconsin’s current statutory definitions.
- On one hand, sugar-based hard seltzers do not contain malt, and thus lack one of the key components of being a fermented malt beverage.
- On the other hand, sugar-based hard seltzers do not clearly meet the definition of intoxicating liquors because they are fermented, do not use fruit, and are not distilled.

Given the lack of a clear definition and the need to fit hard seltzers somewhere into the regulatory framework, the Wisconsin alcohol beverage industry has generally adopted a more contextual and functional interpretation. Under such an interpretation, brewed-sugar hard seltzers – despite not containing malt – are more like fermented malt beverages than intoxicating liquors including wine.

Under the proposal, the Wisconsin statutory definition of fermented malt beverages would be modified based on a revised definition of “beer” used in the Code of Federal Regulations:

“Fermented malt beverages” means any beer, ale, porter, and other similar fermented beverages (including sake and similar products) of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute for malt including rice, grain of any kind, bran, glucose, sugar, and molasses, if such products contain not less than 0.5 percent nor more than 21 percent of alcohol by volume.

Conclusion

Wisconsin law on alcohol beverage regulation needs to be updated.

- Senate Bill 332 is a comprehensive and compromise proposal, better approach than to patchwork of proposals introduced each session.
- Senate Bill 332 will provide clarity and consistency going forward allowing the industry to continue to grow and prosper.

Thank you for your time.

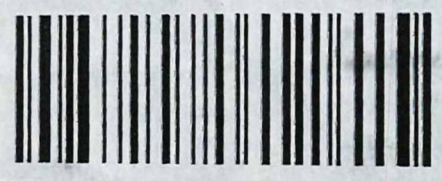
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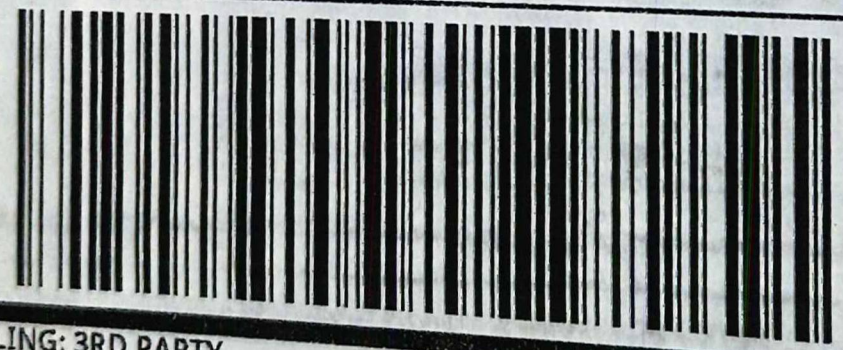


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Written Testimony AB304/SB332 Public Hearing Committee on Universities and Finance
from Rustic Romantic Wisconsin Farm Wedding; Mother of the Groom 8.17.2023

**Extensive DOR Research and consistent with previous opinions
and court cases from around the Country.**

Reference - Wisconsin Legislative Council Study Committee Memorandum August 15, 2018 written by
Melissa Schmidt, Senior Staff Attorney.

BACKGROUND

Current law generally(Chapter 125)....

Tyler Quam, DOR, dated January 23, 2018. Mr. Quam explained DOR's guidance on the term "public
place" for purposes of this prohibition.

While "public place" is not defined within statute, the department has researched this issue
extensively. Rather than focusing on the location of a particular event, the department considers the
nature of the event when determining whether a location is a "public Place." Events such as wedding
receptions, birthday parties, employee appreciation events, family reunions, etc. where attendees
consist only of personally invited guests known to the host and are not open to the general public, do
not qualify as public places. As long as alcohol beverages are not sold, either directly or indirectly, at
these types of gatherings, an alcohol beverage license is not required. This is consistent with previous
opinions and court cases from around the country.

DOR relies upon the 1992 Wisconsin Attorney General opinion 80 OP. Att'y Gen. Wis. 218. The
agency also relies upon the following court opinions from Alabama, Illinois, and Texas: *Clarke v. State*, 12
Ala. 492 (1847); *Campbell et al., v. State*, 17 Ala 369 (1850); *Roquemore v. State*, 19 Ala.528 (1851);
People v Simcox et al., 379 Ill 347 (1942); *White v. State*, 39 Tex. Crim 269 (1898) and *Austin v. State*, 57.
Crim 623 (1910).

Please let me share with you my experiences regarding the business to business and consumer
to business relationships of Wisconsin's Agricultural Event Venues; private party invitation only Rustic
Romantic Wisconsin Farm Weddings from my personal experience as Mother of the Groom.
My son's wedding was held at The Gathering Barn, private event venue which hosts life celebrations,
private events on private property for invitation only guests. Located three miles east from The
Gathering Barn on Hwy 12 is two hotels, Holiday Inn Express and The Country Inn & Suites as well as a
Kwik Trip Store. The wedding party and many of the 300 guests booked rooms at these hotels as well as
other lodging in other nearby communities. **The hotels profited and communities benefited from the
economic revenue generated by the room tax.**

I purchased alcohol from the retail stores Kwik Trip and Woodman's Grocery, Liquor
Department, these retail establishments purchased their products from an alcohol wholesaler. **Under
the three tier system, the manufacturer, the wholesaler and the retailer all three industries profited
from my purchase of alcohol that was consumed by invitation only guests at my son's private wedding
reception.**

Standard practice is to hire licensed trained bartenders to serve private event guests at a private
wedding. For my son's wedding, **I hired four licensed bartenders.**

The wedding ending at 11 p.m. and everyone was off the property at midnight. Many guests extended their celebration at a nearby Mom & Pop tavern. **The rural tavern profited from the increased number of customers between 11 p.m. - 2 a.m. The tavern profited increase alcohol sales.** To ensure safety of our guests, vehicles could be left overnight with no time limit for pick up. **The family also had a bus shuttle between 11p.m. - 2 a.m. The Transportation Company profited.** In addition - there was catering for the rehearsal dinner on the farm. **The caterer profited.** Late night pizza delivery came to the farm for guests after 9:30 p.m. **The pizza establishment profited.** Seven years later, these hotels, retail establishments, caterers, mom & pop taverns, transportation companies, photographers, videographers all profit from Private Events, invitation only life celebrations held at The Gathering Barn. During 2022 Wisconsin residents hosted 34,917 weddings with the average cost of an in-State Wedding was \$24,036 - \$30,000. **The market is driven by consumer choice.** There is room in the market for consumer choice. Brides are looking for private venues; on farms, in museums, at a garden, at a historic home, or at public places such as a winery, distillery or brewery. The venue location is determined by the couples taste and desired experiences. Do not drive those interested in hosting on-farm weddings to the neighboring states of Illinois, Iowa, Michigan or Minnesota.

Wisconsin Agricultural Event Venues "Wedding Barns" are 100 % compliant with Chapter 125. Private Party Invitation Only Events on Private Property. Since 2017 Agricultural Event Venue operators have been telling the lobbyists of the Tavern League of Wisconsin that if there is a bad apple - have local law enforcement / local municipalities shut them down. Oddly there is not one example that has been documented with a fine. Just the same derogatory, degrading language "party barn" "wild west" "accident waiting to happen" "competition" - need to level the playing field. Agricultural Event Venues "Wedding Barns" are not competing with Tavern League of Wisconsin. They don't sell alcohol. They do not want a liquor license. There is no competition. They are renting space for a private event. Private Property, Private Event, Invitation Only. No alcohol is sold. No license is needed. There is no need to create regulations for Venues as they are already regulated through their local municipality (Township, Village, County) via zoning ordinances and conditional use permits (CUPs). The CUP identifies number of events, hours of operation, noise, lighting, etc.

At risk here is Economic Liberties of Agricultural Event Venues (Wedding Barns) on Working Family Farms. Loss of Rural Economic Vitality. Loss of jobs. Loss of profits for many industries hotels, alcohol - manufacturers, wholesalers, retailers - mom & pop taverns, transportation companies, photographers, videographers, officiants, cosmetologists, caterers, florists, etc. Tens of thousands of Wisconsin Citizens will be impacted.

Please remove all the language creating public place and event venue regulations from these bills AB 304/ SB 332 through the amendment process. Do not use the heavy hand of government to destroy an entire industry in Wisconsin.

Sincerely, Sheila Everhart

4618 West County Road A , Janesville, WI. 53548

Mother of the Groom; Wisconsin Farm Wedding hosted at **The Gathering Barn**, Fort Atkinson, WI



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



August 15, 2023

Senator Rob Hutton
Chairman - Senate Committee on Universities and Revenue
Room 313 South
State Capitol
Madison, Wisconsin 53707

Re: Senate Committee on Universities and Revenue

Chairman Hutton:

Thank you for allowing FedEx Corporation ("FedEx") to provide comments relative to S.B. 332 which is scheduled before Senate Committee on Universities and Revenue Committee on Thursday, August 17, 2023. As you can imagine FedEx transports many type commodities throughout the United States including wine. FedEx complies with governing federal and state regulations. Wisconsin's House of Representatives recently passed A.B. 304 which places overwhelming burdens on common carriers. FedEx hopes common ground can be achieved through the passage of S.B. 332.

With respect to federal and state regulation compliance, allow me the opportunity to provide background information as to how FedEx manages shipments containing wine.

First, shippers must be approved and enter into a "FedEx Alcohol Shipping Agreement" which only licensees are able to participate. Attached is a copy of a "FedEx Alcohol Shipping Agreement." Only licensed wineries, retailers, or fulfillment centers (acting on behalf of licensed wineries / retailers) may ship wine to consumers – wine only. At the time of entering into the previously-mentioned agreement wineries / retailers must provide a copy of its license as well as applicable interstate direct-to-consumer license information through the FedEx Compliance Portal which restricts destination states by individual shipper licenses and shipper type. Corresponding shipping requirements: (1.) identify alcohol shipments as containing alcohol through FedEx automation; (2.) require adult signature; and (3.) a standard exception label is affixed to the shipment outer packaging. Attached is a copy of the label.

Secondly, FedEx has a defined delivery process. A delivery handheld device automatically prompts the FedEx delivery driver to scan recipient identification and obtain an adult signature

confirming the recipient is 21 years or older. In the event the delivery driver is unable to complete these steps, the delivery cannot be completed.

Thirdly, FedEx complies with alcohol reporting requirements. Captured data, associated with identified alcohol shipments, is generated by pulling information (upon delivery) for all shipments identified by the shipper as containing alcohol. The data includes both Consumer and licensee shipments. Data reflects information provided by the shipper on its shipping label: shipper name and address; recipient name and address; pick-up and delivery date; FedEx package tracking number; and weight.

With respect to the Thursday, August 17, 2023, Committee meeting, I hope the above-mentioned information assists advancing legislative language minimizing overwhelming burdens placed on common carriers

Sincerely,

FedEx Corporation



William W. Primeaux
Manager – Government Affairs

FedEx Alcohol Shipping Agreement



FEDEX ALCOHOL SHIPPING AGREEMENT

THIS AGREEMENT IS VALID ONLY FOR THE CUSTOMER NAME, LOCATION(S) AND ACCOUNT NUMBER(S) IDENTIFIED HEREIN.

Federal Express Corporation ("FedEx Express") and FedEx Ground Package System, Inc. ("FedEx Ground") (collectively "FedEx") and CLICK HERE TO ENTER TEXT. ("Customer") agree to enter into this FedEx Alcohol Shipping Agreement ("Agreement") as of the last date executed below ("Effective Date"), subject to the following terms and conditions:

1. Terms and Conditions.

- a. Shipments Covered by this Agreement. FedEx shall provide services for the domestic and international shipment of wine, spirits, and/or beer (collectively, "alcohol") only pursuant to the terms and conditions set forth in this Agreement, any applicable FedEx online terms (such as the *Direct-to-Consumer Wine Shipping State Reference Guide*, which is available at <https://www.fedex.com/en-us/shipping/alcohol.html>), and the FedEx Service Guide in effect at the time of shipment, each as may be amended from time to time. In the event of a conflict between the FedEx Service Guide or any online terms and this Agreement, the most recently updated document shall control.
- b. Customer Categories. As indicated below, Customer has been identified as a(n) Winery, Retailer, Other Licensed Entity, or Fulfillment House and agrees to the shipping restrictions associated with its identification. A Customer holding a license for two or more categories will need a separate FedEx account number for each category.
 - Winery. A licensed winery may ship wine to other licensed entities and consumers as permitted by applicable law and FedEx policies.
 - Retailer. A licensed retailer may ship wine to consumers only, as permitted by applicable law and FedEx policies.
 - Other Licensed Entity. A licensed entity, including but not limited to a dealer, distributor, importer, manufacturer, or wholesaler, may ship any alcohol to other licensed entities only, as permitted by applicable law and FedEx policies.
 - Fulfillment House. A licensed fulfillment house or other warehouse may ship wine to consumers and any alcohol to other licensed entities to the extent that the winery, retailer, or licensed entity, upon whose behalf the licensed fulfillment house or warehouse is shipping, is permitted to make such shipment on its own behalf as otherwise permitted by applicable law and FedEx policies.
- c. Locations. FedEx shall provide service for alcohol shipments only to and from the countries, states and political subdivision(s) within a state where permitted by law and by FedEx policies. FedEx reserves the right to add or eliminate such countries, states or political subdivision(s) within a state in its sole discretion without prior notice and to not provide service to or from any country, state or political subdivision(s) within a state, even where such service may otherwise be permitted by law.
- d. Recipients. When creating a shipping label using the current version of a FedEx electronic shipping solution, Customer must identify the recipient as either a "Licensee" or a "Consumer," depending upon the purpose of the shipment. For that purpose, FedEx defines these terms as follows:

- i. *Licensee*. A shipment to a “Licensee” is an alcohol shipment going to a licensed entity holding a state and/or federal alcohol-related license. A “Licensee” shipment may include a shipment of alcohol samples to a non-Licensee at commercial addresses for commercial purposes (e.g. samples sent to research facilities, design or advertising agencies, media), to the extent such shipment is permitted by all applicable laws and regulations and FedEx policies. A “Licensee” shipment – even a shipment of alcohol samples to non-Licensees – may never be destined for a home or private residence, including a location where a business is operated from the home.
 - ii. *Consumer*. A shipment to a “Consumer” is a package containing wine shipped directly to an individual for personal consumption, whether the shipment is to a private residence or to a commercial address. FedEx only permits wine to be shipped to a “Consumer” and only to the extent such shipment is permitted by all applicable laws and regulations and FedEx policies. The shipment of beer or spirits to Consumers is prohibited.
- e. International Shipments. Any international shipment of alcohol – whether to a Licensee or to a Consumer – must be sent via FedEx Express.

2. Customer Shall Comply with All Applicable Laws.

- a. Customer shall comply fully with all foreign, federal, state and local laws, rules, regulations and orders applicable to each of Customer’s shipments of alcohol.
- b. Customer shall not tender any alcohol shipment to FedEx that does not comply with all applicable foreign, federal, state and local laws, rules, regulations and orders. Customer represents and warrants that each and every alcohol shipment tendered to FedEx will be in compliance with all such laws, rules, regulations, and orders.
- c. Customer represents and warrants that it has obtained all applicable licenses and/or permits required to ship alcohol into all states into which Customer intends to ship alcohol pursuant to this Agreement and that it will not ship alcohol into any state for which it has not obtained all applicable licenses and/or permits required to ship alcohol into that state. Customer also agrees to provide any and all licenses and/or permits that it has obtained to FedEx upon FedEx’s request. Further, Customer agrees to only tender packages for delivery that comply with FedEx policy, including but not limited to policies regarding FedEx approved shipping states. Failure to do so may result in immediate termination of Customer’s alcohol shipping privileges into certain states or termination of the Agreement.
- d. In the event of changes or amendments to the laws, rules, regulations, or orders by any foreign, federal, state or local entity governing alcohol shipping, specifically where such change requires a license or permit to ship into or out of a political sub-division (e.g., a country, state, or municipality), Customer represents and warrants that it will obtain such license or permit prior to shipping into or out of the affected political sub-division.
- e. Upon demand by FedEx, Customer shall immediately provide proof (including, but not limited to, copies of any applicable license or permit) to FedEx that Customer has complied with all applicable laws, rules, regulations, or orders.
- f. Customer acknowledges and agrees that FedEx shall not be responsible for identifying or interpreting any applicable laws or regulations that may affect Customer’s alcohol shipments, nor shall FedEx have any liability to Customer where FedEx may comply with instructions or requests from applicable law enforcement or other governmental authorities, regardless if such instructions are inconsistent or contrary to any applicable law, rule, regulation, or order.
- g. For domestic shipments, Customer agrees to only ship alcohol to persons twenty-one (21) years of age or older. For international shipments, Customer agrees to only ship alcohol or wine to persons of legal age or older in the destination country.
- h. In addition to all other responsibilities and requirements herein, Customer agrees to comply with all quantity restrictions imposed by any foreign, federal, state, or local law, rule,

regulation, or order, to keep such records as are necessary to ensure compliance with this provision, and to make such records available to FedEx upon request.

- i. Customer agrees that FedEx may provide to any foreign, federal, state, or local government information concerning Customer's shipments, including but not limited to copies of any of Customer's licenses or permits in FedEx's possession.

3. Customer Shall Comply with All FedEx Requirements.

- a. Automation. Customer agrees to only use a FedEx provided or approved automated shipping solution or device (including fedex.com) for alcohol shipments made under this Agreement. If using an automated shipping solution or device, Customer agrees that such solution or device must be updated to a release version that includes the ability to use the Alcohol Special Service Option, also known as the "Alcohol check box." Customer further agrees that it will keep its automated shipping solution or device updated to the latest release version as new versions are released by FedEx. Customer shall identify all alcohol shipments by selecting the Alcohol check box, which will automatically ensure that Adult Signature Required ("ASR") is automatically selected for domestic shipments, the Ground Service Code or Express Handling Code is included in the shipping label barcode, and "ALCOHOL" prints on the label, all of which are FedEx requirements for packages containing alcohol. Customer shall also supply all information required with respect to alcohol shipments including, but not limited to, the licensed entity's name or individual consumer's name (as applicable) in the recipient's name field. If Customer is a licensed fulfillment house or other warehouse, when creating each shipment, Customer agrees to specify the Customer's name in the "company field" and the name of the licensee on whose behalf the Customer is shipping in the "contact nm field."
- b. FedEx Services. For domestic shipments, Customer agrees to ship all alcohol shipments via FedEx First Overnight, FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx 2Day AM, FedEx Express Saver and FedEx Ground and FedEx Home Delivery services. For international shipments, Customer agrees to ship all alcohol shipments via FedEx International Next Flight, FedEx International First, FedEx International Priority, FedEx International Priority Freight, FedEx International Economy Freight or FedEx International Economy services.
- c. Third-Party License Input and Management. Any Customer that ships wine to Consumers must register with FedEx's designated third-party alcohol license management vendor ("Vendor") and input its Direct to Consumer licenses/permits for the states to which Customer intends to ship. Customer is responsible for updating said licenses/permits' expiration dates when they are renewed. Registration and access to Vendor's portal are provided at no additional cost to Customer. Further details on how to register will be provided as part of the alcohol-shipping enrollment process. If Customer is already a member of Vendor, Customer must elect to share its license/permit information with FedEx and update its Vendor account to pair Customer's FedEx account number with its Vendor account.
- d. Packaging/Labels.
 - (i) Customer affirms that all inner packaging is made of molded polystyrene, molded pulp dividers, or die-cut corrugated units surrounded by sturdy outer corrugated cartons.
 - (ii) FedEx requires the presence of the FedEx-designated alcohol verbiage ("Alcohol Verbiage") on all alcohol shipments. FedEx provides Alcohol Verbiage to Customer for shipping via FedEx Express, FedEx Ground, and FedEx Home Delivery services. The Alcohol Verbiage must be affixed to or printed on the exterior of any package containing alcohol and the Alcohol Verbiage must be clearly visible and unobstructed by tape, shipping label, or any other external item or notation on the package. The Alcohol Verbiage is in addition to, and not in lieu of, any applicable labeling requirements by any foreign, federal, state, or local laws, rules, regulations, or orders, or the automation requirements in Section 3a herein. FedEx reserves the right to amend

the required Alcohol Verbiage at any time, and Customer must use only the current, approved Alcohol Verbiage. Customer has three options for including the Alcohol Verbiage on any alcohol shipment:

- a. Customer may utilize an adhesive label containing only the Alcohol Verbiage. These labels may only be obtained through FedEx and may not be customer generated or provided by any vendor other than as designated by FedEx.
 - b. Customers utilizing a current version of FedEx automation may print a combination label containing the shipping label and the Alcohol Verbiage.
 - c. With prior FedEx approval, Customer may utilize boxes with pre-printed Alcohol Verbiage.
- (iii) FedEx makes no warranties, express or implied, and disclaims any and all warranties in connection with our services and the Alcohol Verbiage provided to Customer. Customer agrees that FedEx will not be liable in any event for any damages, whether direct, indirect, incidental, special or consequential, in excess of \$100.00 for domestic shipments, or US\$100.00, US\$9.07 per pound or US\$20.00 per kilo, (whichever is greater) for international shipments, or the declared value of its shipment in accordance with the FedEx Service Guide in effect at the time of shipment, even in the event FedEx fails to adhere to the Alcohol Verbiage instructions. Customer further agrees that FedEx records concerning the presence or absence of the Alcohol Verbiage on its shipment or the presence of the Alcohol Ground Service Code or Express Handling Code shall be conclusive proof of the actual presence or absence of the Alcohol Verbiage or the presence of the Alcohol Ground Service Code or Express Handling Code on the particular shipment, and Customer agrees that it will not contest FedEx records concerning the presence or absence of the Alcohol Verbiage or the presence of the Alcohol Ground Service Code or Express Handling Code on its shipment. The Alcohol Verbiage provided to Customer is for its exclusive use, and Customer agrees that it will not permit use by any third party.
- (iv) Customer acknowledges and agrees that the provision of any FedEx-provided or required Alcohol Verbiage or labels/labeling or presence of the presence of the Alcohol Ground Service Code or Express Handling Code is not a representation or warranty by FedEx that the shipment, packaging or labels comply with applicable foreign, federal, state, or local laws, rules, regulations, or orders for alcohol shipments.
- e. Adult Signature Required. Customer agrees that for each domestic shipment of alcohol, Customer will select and utilize the following FedEx Delivery Signature Option: Adult Signature Required ("ASR").
 - f. Residential Deliveries. Customer agrees that any shipment traveling Licensee to Licensee ("L2L") shall be destined to a commercial location; and represents and warrants that it will not send any L2L shipment to a residence. FedEx reserves the right to return to the Customer at Customer's expense or destroy any L2L shipment destined to a residence, at FedEx's sole discretion.

4. **Indemnity.** Customer shall indemnify, defend and hold harmless FedEx Express; FedEx Ground; their parent corporation, FedEx Corporation; their affiliated companies; their officers, directors, employees, and agents; and their successors and assigns from any and all claims, losses, damages, fines, costs, demands, expenses (including without limitation attorneys' fees and costs), liabilities, enforcement actions, lawsuits, and/or judgments (collectively "Claims") arising out of or related to Customer's breach of this Agreement or its non-compliance with any laws, rules, regulations, or orders applicable to the shipment or transportation of alcohol, whether such Claims are the result of actions undertaken by a governmental entity or by another person or entity. Further, Customer agrees that it will not settle any such Claims without prior written consent from FedEx. This indemnity shall survive the expiration or termination of this Agreement.

5. **Loss or Damage.** FedEx liability for loss or damage to alcohol shipments shall be pursuant to the terms and conditions of the FedEx Service Guide in effect at the time of shipment.
6. **Money-Back Guarantee.** Customer shall be entitled to file claims pursuant to the Money-Back Guarantee Policy provisions of the FedEx Service Guide, unless otherwise waived or amended pursuant to the terms of any pricing or other agreement between FedEx and Customer. In the event that Customer is entitled to file claims pursuant to the Money-Back Guarantee Policy, Customer acknowledges and agrees that (i) FedEx shall have no responsibility or liability for delay due to the inability to deliver to an appropriate adult recipient or if delivery cannot be completed for any reason, and (ii) Customer shall not be entitled to a Money-Back Guarantee claim for such shipments.
7. **Term.** This Agreement commences on the Effective Date and continues until terminated by either party.
8. **Termination.** *Either party may terminate this Agreement upon notice for the other party's noncompliance with its terms. Further, FedEx shall have the right to terminate this Agreement immediately, and to stop providing service to Customer, if Customer fails to comply with any applicable laws or regulations. Notwithstanding the foregoing, either party may terminate this Agreement without penalty at any time and for any reason upon fifteen (15) days' prior written notice to the other party.*
9. **Unauthorized/Return Shipments.** Any unauthorized or improper shipments by Customer may result in immediate termination of this Agreement by FedEx and/or refusal by FedEx to receive or transport any shipment tendered by Customer. Further, Customer agrees that it will not tender any alcohol shipment that is classified or considered as Dangerous Goods or Hazardous Materials under the FedEx Service Guide unless also properly prepared in accordance with all applicable legal and FedEx requirements for Dangerous Goods (for FedEx Express shipments) or Hazardous Materials (for FedEx Ground shipments).
 - a. FedEx reserves the right to return or dispose of any alcohol shipment tendered to FedEx which (i) Customer is prohibited from shipping, (ii) FedEx is not authorized to accept, (iii) FedEx has specified that it will not accept, or (iv) FedEx has a right to refuse. Customer shall be responsible for all return and/or disposal costs.
 - b. Where FedEx is unable to deliver an alcohol shipment to an adult recipient (for any reason), and Customer refuses return of the shipment or the shipment cannot be returned to the Customer (for any reason, including the reasons identified in 9(a) above), FedEx at its sole discretion shall have the right to dispose of the shipment. Customer shall be responsible for all return and/or disposal costs.
10. **Prior Agreements.** This Agreement supersedes all previous agreements between FedEx and Customer related to alcohol shipments. However, any terms in a prior agreement related to pricing or other services and terms between FedEx and Customer are not superseded and shall remain in effect pursuant to those terms and the FedEx Service Guide. Additionally, any pricing provided in another agreement will apply to alcohol shipments tendered pursuant to this Agreement.
11. **Confidentiality.** Both FedEx and Customer agree that the terms of this Agreement are confidential and shall be held in strict confidence by both parties and may not be disclosed unless required by law or as set forth in 2(i) above.
12. **Electronic Storage.** *Either Party may copy this completed, fully executed Agreement for electronic storage in a noneditable format, at which time the paper form of this Agreement may be destroyed.*

Customer and FedEx agree that following the electronic storage of this Agreement, any hard copy printout of that electronically stored information will constitute an "original" of this Agreement.

13. **Entire Agreement and Amendment.** This Agreement, the FedEx Service Guide, any FedEx online terms and conditions available at <https://www.fedex.com/en-us/shipping/alcohol.html> governing alcohol shipments and any amendments to the above shall constitute the entire agreement between the parties regarding the subject matter herein. FEDEX MAY MAKE FUTURE CHANGES OR MODIFICATIONS TO THE FEDEX SERVICE GUIDE AND/OR THE ONLINE TERMS AND CONDITIONS AT ANY TIME WITHOUT NOTICE, AND YOUR SUBSEQUENT USE OF FEDEX.COM OR YOUR AUTOMATED SHIPPING DEVICE WILL CONSTITUTE YOUR AGREEMENT TO THE CHANGES AND MODIFICATIONS. Specifically, FedEx shall have the right to unilaterally modify or amend any requirements for alcohol shipments at any time and without prior notice. Notwithstanding the foregoing, FedEx may unilaterally amend the terms of this Agreement in part or in whole at any time upon fifteen (15) days written or electronically transmitted notice to Customer.

CLICK HERE TO ENTER TEXT.
("Customer")

**FEDERAL EXPRESS CORPORATION AND
FEDEX GROUND PACKAGE SYSTEM, INC.**
(collectively "FedEx")
By their agent
FedEx Corporate Services, Inc. ("FedEx")

By: _____
(Signature)
Name (printed): _____
Title: _____
Date: _____

By: _____
(Signature)
Title: _____
Date: _____
Employee No.: _____

Customer Address:

FedEx Legal Approved

Customer Account Number:
EAN:

*Offer expires if not accepted by Customer within 30 days of presentation of this Agreement.
Any alterations to this document by either party will render it null and void in its entirety.*

#1236275v8

ACKNOWLEDGEMENT

CUSTOMER:

ACCOUNT(S):

As an authorized signatory for the above-referenced alcohol account and any other accounts approved to ship alcohol, either now or in the future (“Customer”), I am responsible for knowing and complying with all applicable laws, regulations, and policies regarding my alcohol shipments in both the origin and destination states. I acknowledge I fully understand that the shipment of beer or spirits to consumers through FedEx is prohibited by FedEx policy and the Alcohol Shipping Agreement (“Agreement”). Additionally, I fully understand that any shipments of wine to consumers in prohibited states or in restricted states without the proper license is prohibited by FedEx policy and the Agreement.

I acknowledge and accept that any violation of FedEx policy or the Agreement may result in immediate termination of the Agreement or my FedEx account(s), including those accounts added after the date of signing, without further warning.

ACKNOWLEDGED AND AGREED TO:

Name: _____

Signature: _____

Date: _____

FedEx Standard Exception Label

Special Delivery Instructions

This package contains ALCOHOL
Adult Signature Required - Check ID
Recipient Must be at least 21 years old

Do not deliver to an intoxicated person
No signature release, driver release or indirect delivery allowed

Shipper certifies that this shipment complies with:

- all FedEx requirements
- all applicable government laws/regulations, including all requirements related to delivery in the destination state.

00110 324

FedEx.

FedEx Standard Exception Label

SB 332 LIQUOR LICENSE BILL

Let me first say I grew up on a farm. I love barns, and I am thrilled to see barns being rejuvenated for any reason. It is part of our heritage.

There are many good things in this bill, but "parody" should be the guiding factor for everyone involved in serving alcohol. And this means if you want to serve alcohol you must be commercially zoned like every bar and restaurant in this state!!

For the safety of the public, anyone handling alcoholic beverages should be licensed under the law. The minimum price for a Class B liquor license is \$10,000 which is paid to the township or municipality issuing it under the laws of Wisconsin State Statute 25. The License applicant must meet LEGAL and PHYSICAL requirements according to the statute. An establishment cannot have 300 chairs just sitting around, pretending to be a restaurant without even a full restaurant license. Legal requirements must be met which is a guarantee to the public that this establishment has gone through rigorous inspections performed by the appropriate governmental bodies.

If a business is zoned agricultural, a party renting that property is allowed to bring in their own alcohol, and must follow other rules put in place by the zoning board of the county. I have attached the special "exceptions" pertaining to this ordinance for my county, but will state number 5 here:

For events that include alcohol, it will be free of charge to attendees and served by a licensed bartender. This is permitted by WI state law regarding alcohol at private events.

Real Estate Taxes on commercial property is taxed at a much higher rate than agricultural property. This is financially beneficial to the township or municipality and to its citizens where it is located. In my situation, a barn with very similar acreage and buildings that I have, pays only 20% of what I pay in taxes. They are cheating the citizens of my township!!!

Commercial property insurance needs are kept to a high standard and are costly. Barns should also have to obtain similar insurance so as to not make the township liable for damages due to an alcohol related incident. Misinterpreting the law by the township board makes the board members liable to lawsuits because they illegally issued a liquor license.

That the fire department is allowing hundreds of people in an old wooden barn for several hours with very few exits is unbelievable! Commercial zoning would require sprinkler systems or other equipment to ensure the safety of the public.

The "exceptions" mentioned above have been in effect for years. The sale and use of alcohol and food are covered in these exceptions. It is an equitable situation for them and for existing bar and restaurant owners. Everyone needs to follow existing statutes and zoning board's rules.

Please revise this bill to reflect the above "common sense" rules which are already in the statutes! By the way, whatever happened to a law that states there could be only so many liquor licenses per the population of the municipality? Pretty soon "every" barn, pole shed, machine shed, back porch, saw mill, lean-to etc. will want an alcohol license!!!

Respectfully submitted by a resident of Wisconsin

Dear Senators:

We moved up here from IL on 12-30-2005 to buy a bar. Very excited, my husband and I signed the mortgage papers on January 2nd, 2006 and opened the door to our new business.

Now before that, I had to do a few things that are **REQUIRED** by the state of WI. For my kitchen I had to sit through a full day class & pass the state test for my "Sanitation Certification" and I had to have a Health Inspection that I had to pass to qualify for my "Food License" for me to cook and serve food.

I took the "serve safe" bartenders' course online for my bartenders license. Each of my employees had to take that same course to get their "Operators License" so they know how to serve liquor "Responsibly".

The wedding barn is saying "*we don't need licensed bartenders*", & why not?

- **Serve Safe training** – Licensed, **KNOWLEDGEABLE** bartenders = **controlled serving**
- **WITHOUT LICENCED BARTENDERS:**
- There will be out of control drunks & fights
- More drunk drivers on the road
- There will be under-age drinking with no supervision. It **WILL** happen & **THEY WILL** drive?

Every year, I go through the same series of REQUIREMENTS from the state of WI, that until now, I haven't had a problem with. Now let's look at just a few VERY important things that **WE** think about all the time.

Probably 90% of the general public that has never been in the business would say "**So what**" to these things until something **TRAGIC** goes wrong at **THEIR** event.

Spider Lake Saloon, Birchwood

Obtain a Business License

Building Inspection

Fire Inspection

Water Inspection

License from local municipality

Must have proper insurance

Pay taxes

Wedding Barns

N/A – Have they even registered?

N/A – Is the building even up to code?

N/A – **ANY** inspection done?

N/A – Contaminated water?

N/A – Local municipality misses \$\$\$

N/A – Who has to cover the event?

N/A – **Ha-ha WI.. YOU GET NOTHING!!!**

At our businesses people don't have to worry about all "the little things" that really do matter, where at an unlicensed establishment, WOW, the problems are ENDLESS!!! I'm not just talking liquor, I'm talking **EVERYTHING!!!**

Okay, have I made my point yet?

NO?

Well, let me continue on with one little story....

Actually, I really don't need any more stories.

I am going to call "UNCLE"!!!

I really do not believe that you will EVER change your thoughts on the interpretation of the licensing, so instead, I have been planning my future ventures.

Thanks to you, I have already checked out a few vacant stores in and around my town to rent out when I want to. Wow, behind my bar, on my property, I have just enough room to put up a tent & this space is NON-licensed of course which would be ideal for private parties. My home is on 5 acres of land with a beautiful POND (SWAMP) that would be perfect for wedding photos and just because there is an event barn not even 1/8 of a mile away there should be NO problem, a little competition is good for everyone. Are they licensed, NO, well, it really doesn't matter now does it?

I've been a bar owner 14 years that I am just realizing the benefits I'll have being able to do this:

- No closing times
- Smoking everywhere
- Police CAN'T stop unless a complaint has been CALLED in.
- I CAN'T be held responsible if someone underage drinks.
- God forbid, if someone intoxicated leaves at 8am (no closing time) and wraps their car around another car with a family of 6 going to church on SUNDAY and KILLS THEM ALL, I JUST OWN THE BARN, IT'S NOT MY FAULT!!!

***CHAPTER 125 MEANS ABSOLUTLY
NOTHING TO ME!!!!***

I won't have to license these spaces because they will ONLY be for PRIVATE parties. Now, I have **NEVER** heard of a bouncer making sure that only the INVITED guests are the ones inside so, I really am not going to worry about that now, will I?

How awesome, I just realized that I can just go to Sam's Club or Walmart to get the beer and liquor to sell to the host of these parties really really cheap!!! I can also do the food catering and offer that cheaply too since there are no licensing, no 3 TIER REGULATIONS, TAXES or actually ANYTHING IN MY WAY!!!! WOO HOO!!!

I am starting to wonder why I still own a bar when all this can be done so easily and with **NO ONE** looking over my shoulder. What could be easier or better for **ME?**

If this turns out the way your fact sheet shows, you **WILL** see me **ALL** over Northern Wisconsin renting out all kinds of vacant buildings, empty lots, or see my tents and signs advertising "Lee's Private Parties".

Again, I want to thank you for showing me that owning a bar in Wisconsin and having to go through all the hassle, high prices, laws, regulations, inspections, possible fines, insurance for everything, classes, certifications and ***IN GENERAL HAVING TO DEAL WITH THE STATE OF WISCONSIN IS A WASTE, when*** I have to do is have a party barn and I don't have to do anything special but earn money!!!

Thank you,

Lee Ellerbruch

Spider Lake Saloon

Birchwood, WI

715-354-3723

P.S. Do you know anyone who wants to buy a bar?



131 W. Wilson St., Suite 505
Madison, Wisconsin 53703
phone (608) 267-2380; (800) 991-5502
fax: (608) 267-0645
league@lwm-info.org; www.lwm-info.org

Alcohol Reform Bill Senate Bill 332/Assembly Bill 304

Chairman Hutton and Members of the Senate Committee on Universities and Revenue, thank you for the opportunity to submit written testimony on Senate Bill 332/Assembly 304. The League of Municipalities supports much of the bill, and we are grateful to the bill authors for bringing this bill forward. However, there are concerns with three provisions in the bill:

Page 37, lines 3-9

125.09 (1) (b) For purposes of par. (a), a public place includes, **but is not limited to**, a venue, location, open space, room, or establishment that is any of the following:

1. Accessible and available to the public to rent for an event or social gathering.
2. Held out for rent to the public for an event or social gathering.
3. Made available for rent to a member of the public for an event or social gathering.

- We are requesting to add the above “but is not limited to” language to provide additional clarification that the plain English definition of “public place,” that municipalities have been operating under, is not being eliminated or inadvertently narrowed. Rather, it is being amended to make it clear that traditionally private places held out for rent (e.g., wedding barns) are public places for the purpose of Ch. 125 and must obtain liquor licenses. We are fine with that.
- However, because 125.09(1)(b) provides a list of what is included in the definition of “public place” and (1)(c) provides a list of what is not a public place, we want to make it clear that (1)(b) is not intended to be an exhaustive list – i.e., a location does not have to be available for rent to be considered a public place (because 1, 2, and 3 all refer to locations available for rent). Our requested language is intended to make it clear that places that do not fall under either (1)(b) or (1)(c) *may* still be considered a public place.

Pages 80, lines 13-17 **AND** Page 110, lines 11-15

3. Except as provided in subd. 2., a municipality's approval under subd. 1. shall be based on the same standards and criteria ~~that the municipality has established by ordinance~~ for the ~~evaluation and approval~~ of retail license applications. A municipality may not impose any requirement or restriction in connection with the approval under subd. 1. that the municipality ~~does~~ **could** not impose on retail licensees.

- 1st sentence: Most municipalities do not have ordinances establishing standards and criteria for making these legislative decisions because the analysis is unique to each individual applicant. The decision to approve a retail license application is a local legislative decision. Valid reasons for denial of a retail license are based on concerns for public safety, health, and welfare of the community.
- 2nd sentence: This limitation would not allow municipalities to respond to unique situations appropriately (not even those just related to the fact it's a brewpub or distiller). For example, if a brewery wanted to open a retail outlet along a river, which presented a specific safety concern



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that needed to be mitigated but the municipality had never imposed such a restriction on other retail licensees, it would be prohibited from doing so under the current language. The modest change above would ensure that municipalities regulate retail outlets within their existing authority while still retaining the ability to respond to unique safety, welfare, and health concerns that may be presented.

Pages 90-91, Statewide Operators Licenses

A large number of municipalities would like this provision deleted. However, if that is not possible, modifications can be made to alleviate concerns about background checks, the enforcement of violations, and the ability to suspend, renew, or revoke licenses.

These changes to this provision would help protect public safety:

- Create a specific process for revoking an operator's permit at the state level. Additionally, create a process for local municipalities to formally report concerns related to individuals holding an operator's permit and trigger a formal investigation by DOR. Municipalities and local law enforcement will have unique exposure to problematic behavior and can assist DOR in reporting such behavior.
- Create a statewide DOR system of operators that would allow municipalities to report municipal violations by specific operators.
- Create statewide background check criteria so that municipalities feel assured that DOR is doing due diligence.
- Ensure operator's permits are made searchable on the DOR's website for enforcement purposes, so that local law enforcement and municipalities can access this information and verify that someone has a legitimate operator's permit.

Many relevant convictions, including sale to underage, overserving, etc., are municipal violations that are not included in CCAP. There is no statewide database for municipal violations. The state should use CCAP data and develop a system for capturing local violations from municipal courts.

DOR needs a reporting system for bad actors to ensure that they do not float from one municipality to another. Currently, municipalities can revoke a locally-issued operator's license when they know someone is being a bad actor. However, they will not have the ability to revoke state-issued operator's permits which creates the concern that bad actors may go unaddressed. Municipalities need to continue to be able to protect public safety in their communities.

It would be beneficial if operator's permits are made searchable on the DOR's website for enforcement purposes, so that law enforcement and municipalities can access and verify that someone has a legitimate operator's permit.

Thank you again for this opportunity to submit testimony, and thank you for the consideration of the changes above. We do support much of the bill and are grateful to the bill authors for bringing this bill forward.



W7675 Hwy 12
Fort Atkinson, WI 53538
August 17, 2023

Dear Members of the Assembly Committee on State Affairs,

I am Afton Krysiak, the proud new owner of Busy Barns Adventure Farm and The Gathering Barn in Fort Atkinson, Wisconsin. My husband and I weren't always farmers, we chose to become farmers, we chose to wake up at 5 am, care for our animals, plant our crops, all so people in the community can come enjoy our farm. As a teacher and a firefighter, it was a leap of faith to take on the farm and all that came with it. We saw potential in raising our children on the farm, the positive impact the farm has on its community, and the value in showing our children that contribution. We serve a **wide** range of people: students come from Milwaukee, Madison and Illinois to have first hand experiences on the farm, with our lovingly cared-for farm animals. We hope to be able to continue to sustain our farm for these students to learn, enjoy and experience. We serve wedding couples and their families from all over the United States and even the world who travel to see their loved ones join in their sacred vows at our private invite only venue. We provide the rural magic that so many associate with Wisconsin, but are unable to find in their daily lives. If this bill passes it would be devastating to our farm AND our community: devastating to the hotel in Fort Atkinson BUILT to support our venue's need for rooms; devastating to the 20 different catering companies and their staffing who serve food at our venue; devastating to the florists, decorators, DJ's, cake and dessert companies... the shuttles, late night food deliveries, the restaurants, gas stations, and grocery stores. ALL benefiting and thriving on our weddings and their out of town guests attending the weddings on our farm. You aren't only hurting our livelihood, but you are going to hurt communities across the state that benefit from their local barn venues. Our interests and the interests of other barns like ours were not taken into account. We are not interested in owning a bar, selling liquor, or profiting from the sale of alcohol. This law infringes upon the rights of farmers to utilize their property for lawful purposes. It restricts our ability to host private events - taking away our ability to supplement the work we do as farmers. We want to connect with families, provide them with value, allow them to celebrate like they would at their own home, but in an iconic Wisconsin atmosphere. This law pulls our focus away from the people we serve and forces us into a business we didn't choose...or choose to close our event space and lose the income that makes our small farm sustainable. Governors have seen the value of keeping barn venues OUT of this kind of systematic overhaul in the past - we URGE you to recognize that value again. We are happy for the business owners who will benefit from the good changes in this bill - they deserve to be able to support their families and grow their businesses, but please do not kill our business and those of my fellow farmers by passing this bill AS IT IS WRITTEN. This proposal appears to be a solution in search of a problem, as there is no compelling evidence to justify the proposed changes in liquor licensing laws for wedding barns. My family would like to continue to sustain our farm and support our community. Thank you for your consideration.

Sincerely,

Afton and Mitch Krysiak
Owners of Busy Barns Adventure Farm

Lindsey Zeisler, Director of Sales
Country Inn & Suites
1650 Doris Drive, Fort Atkinson WI



8/16/23

To Whom it May Concern,

I am the Director of Sales at an 83-room hotel in Fort Atkinson, WI. During the spring, summer and fall months we receive a lot of room revenue from wedding blocks that are referred to us from the Gathering Barn. Due to its proximity to our hotel, our location is convenient for wedding guests to take a quick shuttle to and from the Gathering Barn. We have a block of rooms held for wedding guests coming from the Gathering Barn almost every Friday and Saturday night. Those guests pay for hotel rooms, but we also receive other revenue from these rooms. Guests will purchase items from the hotel market and the bar. We also will hold rehearsal dinners and gift openings in our meeting space for these wedding guests.

If the Gathering Barn were to close its doors, or no longer be able to hold weddings on Fridays and Saturdays, this would have a significant negative financial impact on our hotel room revenue, as well as our meeting room revenue.

Sincerely,

Lindsey Zeisler

MEMORANDUM

TO: Interested Parties

FROM: Mike Wittenwyler / Parker Conover
Godfrey & Kahn, S.C.

DATE: August 10, 2023

SUBJECT: Assembly Bill 304 / Senate Bill 332: Regulation of Event Venues (“Wedding Barns”)

Under current law, a person controlling a public place must hold a retail alcohol beverage license for that premises to sell or allow the consumption of alcohol beverages. Disagreement about what is a “public place” has resulted in certain event venues (frequently referred to as “wedding barns”) selling or allowing the consumption of alcohol beverages at the event venue without a retail license.

Assembly Bill 304 / Senate Bill 332 (the “Alcohol Beverage Legislation”) would clarify that event venues are required to hold retail licenses if they sell or allow the consumption of alcohol beverages. However, to assist currently unlicensed event venues, the Alcohol Beverage Legislation:

- Creates a no-sale event venue permit that would be issued by the newly created division (the “Division”) within the Department of Revenue (the “Department”) for event venues that do not sell alcohol beverages but allow their consumption on no more than six days per year, one day per month; and,
- Includes an exception to the current quota on “Class B” retail licenses for event venues that seek a retail Class “B” / “Class B” license to sell alcohol beverages.

Moreover, the Alcohol Beverage Legislation does not regulate any event venue that does not allow for alcohol to be sold or consumed on the property. And, the Alcohol Beverage Legislation does nothing to change current law on the use of a concessionaire which is always an option for an event venue owner that wants to delegate alcohol beverage sales to another party.

CURRENT LAW

Wisconsin generally requires that a person be “licensed” to sell alcohol beverages, or to allow their consumption, in a public place under their control. That is, Wisconsin specifically prohibits an owner or other person in charge of a “public place” from allowing “the consumption of alcohol beverages on the premises of the public place, unless the person has an appropriate retail license or permit.”¹

¹ Wis. Stat. § 125.09(1). There are exceptions for county parks, athletic fields, churches, municipalities, and certain clubs.

While the term “public place” is not defined in Chapter 125, an “event venue” generally open to the public for rent but rented for a specific private event and attended only by private invitees is nevertheless a “public place”.² In other words, if an establishment is held out to the public for the purpose of renting, then “regardless of whether [a] future event is open to the general public, or limited to an invited list of guests, the event venue still retains the overall character of a ‘public place’[.]”³

Accordingly, under current law, event venues are required to hold alcohol beverage retail licenses if alcohol beverages are to be consumed at any event on the premises.

REGULATION OF EVENT VENUES

The Alcohol Beverage Legislation:

- Clarifies that event venues are public places even if they hold events limited to invited guests;
- Creates a no-sale event venue permit; and,
- Provides a quota exception for event venues.

Public Place Clarification

Under the Alcohol Beverage Legislation, a public place includes any venue, location, open space, room, or establishment that is:

- Accessible and available to the public to rent for an event or social gathering;
- Held out for rent to the public for an event or social gathering; or,
- Made available for rent to a member of the public for an event or social gathering.

However, a public place does not include:

- A room in a hotel, motel, or bed and breakfast that is used for overnight accommodations;
- Certain furnished, temporary lodging rentals;
- Licensed campgrounds;

² Letter from Attorney General Brad Schimel to Rep. Rob Swearingen, dated November 16, 2018; *see* 80 Op. Att’y Gen. 218 (1992).

³ *Id.*

- A parking lot, driveway, or yard where vehicles may be parked on the same day as a professional or collegiate sporting event or other ticketed event open to the public, held at the football stadium or baseball park; or,
- Property near Lambeau Field or American Family Field.

Accordingly, most event venues would be considered public places and be subject to alcohol beverage licensure even if the events hosted there were limited to invited guests only.

No-sale Event Venue Permits

Under the Alcohol Beverage Legislation, the Division would issue no-sale event venue permits to event venues that are held out to the general public for rent on no more than six days per year, one day per month.⁴ With the permit, the person renting the event venue is allowed to bring their own beer and wine to the event for consumption by their guests. Accordingly, the no-sale event venue authorizes the venue to:

- Allow their renter or lessee to bring the renter's or lessee's own beer and wine onto the event venue and serve it to guests without charge;
- Allow the guests of the renter or lessee to bring beer and wine onto the event venue to be consumed without charge;
- Allow the renter or lessee to obtain a Temporary Class B license for the event and then sell beer and wine under that license; and,
- Allow the renter or lessee to contract with a licensed caterer for the caterer to provide beer and wine to guests at a hosted bar, without charge (no cash bar) at the event venue.

Importantly, this permit would not authorize the sale of any alcohol beverages or the provision or possession of intoxicating liquor – distilled spirits and wine – at the event venue.

Quota Exception: No-sale Event Venue Permits

Current law imposes a quota on the number of "Class B" licenses that a municipality may issue. The Alcohol Beverage Legislation creates a quota exception for the issuance of "Class B" licenses to qualifying event venues. Event venues meeting the following qualify for the quota exception and may be issued an "under quota" retail license even if the issuing municipality has met its quota:

- In the 12 months prior to the license application, the venue has hosted at least 5 events of 50 guests and received at least \$20,000 in revenue from renting or leasing the venue for these events;

⁴ See Assembly Bill 304 / Senate Bill 332 Section 96, proposed § 125.24.

- The venue is and has been in operation for the 12-month period preceding the license application;
- The venue has not been a retail licensed premises during this 12-month period;
- The venue owner provides documentation that the municipality in which the venue is located has reached its liquor license quota; and,
- The venue owner provides notice to the Division within 60 days after the Alcohol Beverage Legislation’s effective date that the owner is applying for a “Class B” license and is not seeking a no-sale event venue permit.

A municipality may issue a “Class B” license under this quota exception only if the license application is received by approximately six months after the Alcohol Beverage Legislation’s effective date.

CONCLUSION

In sum:

- Under both current law and the Alcohol Beverage Legislation, event venues are “public places” subject to alcohol beverage licensing if they sell or allow alcohol beverages to be consumed;
- The Alcohol Beverage Legislation creates:
 - A no-sale event venue permit for event venues that do not sell alcohol beverages but allow their consumption; and,
 - A limited exception to the current quota on “Class B” retail licenses so that event venues may obtain a “Class B” license notwithstanding whether the issuing municipality has met the license quota.

Please let us know if you have further questions or need any additional information.

29763634.1

**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.

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.</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.

Schmidt, Melissa

Subject: FW: Testimony For The Public Hearing Regarding SB 332

From: Esbeck, Nicholas <Nicholas.Esbeck@legis.wisconsin.gov>
Sent: Friday, August 18, 2023 11:02 AM
To: Schmidt, Melissa <Melissa.Schmidt@legis.wisconsin.gov>
Subject: FW: Testimony For The Public Hearing Regarding SB 332

From: Bruce Buerger <brewmaster@bbbrew.com>
Sent: Wednesday, August 16, 2023 12:12 AM
To: Sen.Hutton <Sen.Hutton@legis.wisconsin.gov>
Cc: Krebs, Samuel <Samuel.Krebs@legis.wisconsin.gov>
Subject: Testimony For The Public Hearing Regarding SB 332

Hello Senator Hutton,

I'm unable to attend the public hearing regarding SB 332 on Thursday, August 17th and wish that this email be added as testimony regarding the bill.

In late 2019 I was directed by the Department of Revenue to seek a legislative change. It was in regards to some statutes that are preventing the State of Wisconsin from holding amateur and professional brewing events. Hearing about the proposed SB 332 I reached out to Senator Kapenga's office regarding a potential solution. In our discussions it was suggested I reach out to you, the chair for the Committee on Universities and Revenue.

I'm a Waukesha resident (3503 White Oak Way, Waukesha, 53188) and represent the competition committee for the Beer Barons of Milwaukee, a local homebrew club. Since 2010 we've hosted the Midwinter Homebrew Competition, which has brought in about 800 entries throughout the states and territories annually. I've also served as the Judge Coordinator for the American Homebrewers Association's (AHA) National Homebrew Competition, as a judge at the Brewers Association's (BA) Great American Beer Festival Competition, a Steward at the BA's World Beer Cup, and as the Judge Coordinator for the Mazer Cup, an International Mead (honey wine) Amateur and Professional Competition.

Below is some of my correspondence with the DOR in 2019 regarding their position. The reason I originally reached out to them was regarding an interpretation we received that impacted us receiving out of state beer, mead, and cider entries for our local amateur Midwinter competition. During my meeting with them they recommended seeking legislative changes per our challenges with their interpretations. The interpretation, and the existing statutes impacts our efforts to bring the following, to name a few, to the State:

- The AHA's National Homebrew Conference
- The AHA's National Homebrew Competition
- The Brewers Association's Craft Brewers Conference

- The Brewers Association's World Beer Cup Competition
- The Mazer Cup, an international amateur and professional Mead competition

The issues with the interpretation and existing statutes:

- It's the DOR's interpretation that home made fermented beverages cannot be brought into the state unless the person who made the beverage purchases a state shippers permit. Fees for local homebrew competition are typically \$10 per entry. State shippers permit fees are in the \$1,000s of dollars. This kills our ability to use competitions to grow a hobby that has produced several professional brewers.
- The AHA's parent group is the Brewers Association, which represents professional craft brewers. In addition to their hosting of the Great American Beer Festival in Denver each year they also organize the World Beer Cup and Craft Brewers Conference, which travels to different cities each year. This event pulls in thousands of attendees from the brewing industry. In 2022 the competition event in Minneapolis pulled in 10,542 entries from 2,493 breweries and 57 countries. The competition and the conference are held together in the same location. The barrier here again is the DOR's stance that each of the out of state breweries participating in the competition would be required to purchase a state shippers permit. Fees for professional competitions are typically \$100 to \$200 per entry. Again, state shippers permit fees are in the \$1,000s of dollars.
- A big part of the AHA's National Homebrew Conference is their annual homebrew night, where attendees from all over the country serve their homebrew to fellow conference attendees. Note this event is not open to the public, only conference attendees can partake and this is in accordance with current legislation. The AHA cannot consider WI to host a conference because, according to the DOR's interpretation, each out of state attendee who wishes to serve at homebrew night would be required to purchase state shippers permits for the brews they wish to serve. The conference has pulled in 2,500 and 3,000 attendees from all over the country, which would be a big revenue boost for the state.
- Pertaining to the National Homebrew Competition, which takes place during the conference, we would not be able to receive entries from out of state participants due to the state shippers permit requirement. This further deters the AHA from bringing their events to WI.
- The state retail license fee is quite steep and becomes a barrier for groups in WI to host both amateur and professional competitions. I personally would like to lobby my fellow teammates at the Mazer Cup to bring that competition to WI however the DOR's stance prevents this from happening. The issue being any out of state participants would be required to purchase a state shippers permit.
- The previously mentioned competitions and conferences pull in industry professionals to take part in the judging and seminars. These industry professionals then take meetings with WI business owners regarding ingredients, equipment, collaboration efforts, future distribution in the state, etc. Opportunity lost for WI businesses and agricultural industries.

The original asks, per the DOR's request to seek a legislative solution, had been:

1. That we modify our existing legislation so that homebrewed fermented beverages are exempt from needing a state shippers permit. The remaining homebrew legislation on the books prevents homebrewed fermented beverages from being sold so there is no tax revenue or retail revenue threatened there.
2. That professional producers of fermented beverages be made exempt from needing state shipper permits for the purposes of participating in a competition. If a volume limit would need

to be considered I would suggest something to the effect of six 750ml bottles per an entry. I state six because judging sometimes requires multiple rounds (category judging, medal round judging, best of show judging, etc.). A fresh bottle is needed for each round due to product integrity and time between judging rounds. 750ml bottles because mead, cider, and some brewers commonly package their product in this size bottle. The purposes of competing and the volume limits would act to protect any threats to retail revenue. Tax revenue really isn't threatened either since the current shippers permit requirement is a non-starter for competitions.

I understand though that there is a desire to not revise the proposed legislation under SB 332 and AB 304, nor allow any amendments. I only seek a way to allow these types of events to take place so amateur and professional brewing can continue to prosper and WI can benefit from the business and tourism that the events would bring. If legislative changes are not possible, I'm very much open to hearing alternate solutions.

Thank you very much for your time and consideration. I would appreciate hearing thoughts from the committee or others on what I'm proposing.

Prosit, Sláinte, Salute, Na Zdravi, Cheers! - Bruce Buerger
Beer Barons of Milwaukee - beerbarons.org
Coordinator - Midwinter Competition
bbbrew.com

----- Forwarded message -----

From: **Quam, Tyler - DOR** <Tyler.Quam@wisconsin.gov>
Date: Fri, Sep 13, 2019 at 9:49 AM
Subject: RE: 2023 National Homebrew Conference Opportunity for WI
To: brewmaster@bbbrew.com <brewmaster@bbbrew.com>
Cc: Waldherr, Brian J - DOR <Brian.Waldherr@wisconsin.gov>

Hi Bruce,

Thanks for the email, and thanks for your patience as we researched this issue. We have concluded that state law does not allow fermented malt beverages to be brought into Wisconsin for personal consumption nor for events, samplings, tastings, or judging of homemade fermented malt beverages. The statutory authority for the department's longstanding position that fermented malt beverages cannot be carried into Wisconsin for personal use is found in the following statutes:

- [Sec. 125.30\(1\)](#), Wis. Stats., which states. "... 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 [an out-of-state fermented malt beverage shipper's] permit..."
- [Sec. 139.05\(7\)](#), Wis. Stats., prohibits a person from shipping into Wisconsin a fermented malt beverage from another state, unless the person obtains a license for shipping fermented malt beverages (an out-of-state fermented malt beverage shipper's permit).
- [Sec. 139.05\(7\)\(b\)](#), Wis. Stats., requires the holder of the out of state shipper's permit to furnish a bond in an amount not less than \$1,000.

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- [Sec. 125.14\(2\)\(a\)](#), Wis. Stats., provides that all alcohol beverages owned, possessed, kept, stored, manufactured, sold, distributed or transported in violation of ch. 139 and all personal property used in connection therewith is unlawful property and may be seized by any peace officer.

Thank you,

Tyler Quam

Special Agent in Charge

Wisconsin Dept. of Revenue

Alcohol & Tobacco Enforcement Unit

Phone (715) 842-2343

Fax (715) 848-1033



ReplyReply allForward