



Retail Sales by Alcohol Beverage Producers

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Among other provisions, 2023 Wisconsin Act 73 expands the ability of permitted brewers, manufacturers, rectifiers, and wineries (“producers”) to make retail sales of alcohol beverages and establishes regulations that are consistent for each type of permit.¹ These changes are effective on May 1, 2024.

Prior to Act 73, a brewer’s permit allowed the retail sale of fermented malt beverages (“beer”) from the brewer’s premises and a separate, off-site retail location; from those locations, a brewer could sell beer manufactured by the brewer and other Wisconsin brewers, but generally could not sell intoxicating liquor (distilled spirits and wine, “liquor”) or obtain a “Class B” liquor retail license.² A manufacturer’s or rectifier’s permit authorized the retail sales of liquor manufactured or rectified on the premises and, after obtaining a Class “B” beer retail license, the sale of beer. In comparison, a winery permit did not allow any retail sales unless the winery also obtained a retail license. Additionally, wineries that held a “Class B” liquor retail license were not allowed to make retail sales between 9 p.m. and 8 a.m., while the statutes did not specifically address closing hours for brewers, manufacturers, and rectifiers.³

RETAIL SALES UNDER 2023 WISCONSIN ACT 73

Under Act 73, any producer may make retail sales from its production premises of alcohol beverages that it produced. While producers may no longer obtain a retail license, any producer that meets certain production thresholds may engage in full-service retail sales from its production premises and, with the approval of the municipality and Division of Alcohol Beverages (DAB), from between one and three full-service retail outlets. Full-service retail sales means retail sales of beer and liquor, for on-premises or off-premises consumption, or the provision of taste samples of beer or liquor, or any combination of these activities. A producer may also operate a restaurant on its premises and at any full-service retail outlet.⁴

Authority to Engage in Full-Service Retail Sales

Under Act 73, a producer may engage in full-service retail sales from the production premises if it has produced the following in any of the three preceding calendar years: for a brewer, at least 250 barrels of beer; for a manufacturer or rectifier, at least 1,500 liters of liquor; and for a winery, at least 1,000 gallons of wine. For those that qualify, the authority to engage in full-service retail sales from the production premises is granted as one of the activities authorized by the producer’s permit; it is not otherwise dependent on the approval of the municipality or DAB. Any alcohol beverages sold, other than those manufactured under the producer’s permit, must be purchased from a permitted wholesaler or from a brewer, brewpub, or out-of-state shipper authorized to make sales to retailers.⁵

Authority to Establish Full-Service Retail Outlets

A producer that may engage in full-service retail sales from its premises may also operate between one and three full-service retail outlets and may make full-service retail sales from those locations, subject to the approval of the municipality in which the outlet is located and DAB.

Production Thresholds

A producer’s authority to establish one or more full-service retail outlets is based on its cumulative maximum production in any of the preceding three calendar years, as follows:

- One outlet to any of the following: (1) a brewer that has produced at least 250 barrels of beer; (2) a winery that has produced at least 1,000 gallons of wine; and (3) a manufacturer or rectifier that has produced at least 1,500 liters of liquor.

- Two outlets to any of the following: (1) a brewer that has produced between 2,500 and 7,500 barrels of beer; (2) a winery that has produced between 5,000 and 25,000 gallons of wine; and (3) a manufacturer or rectifier that has produced between 5,000 and 35,000 liters of liquor.
- Three outlets to any of the following: (1) a brewer that has produced more than 7,500 barrels of beer; (2) a winery that has produced at least 25,000 gallons of wine; and (3) a manufacturer or rectifier that has produced more than 35,000 liters of liquor.

A producer that holds multiple permits is eligible to operate, in the aggregate, the maximum number of locations authorized under any single permit, but not exceeding three full-service retail outlets.⁶

Municipality and DAB Approval

Unlike retail sales from a producer's production premises, a producer must first obtain the approval of both the municipality in which the full-service retail outlet will be located and DAB. The municipality's approval must be based on the same standards and criteria that it has established by ordinance for the evaluation and approval of retail license applications; a municipality may not impose requirements or restrictions on a producer that it does not impose on retail licenses. A municipality may, however, limit the scope of alcohol beverages that the producer may sell at the outlet with respect to alcohol beverages that are not the same type as those produced by the producer.

DAB must approve an application for a full-service retail outlet, and may not revoke that approval, unless the producer has violated a provision of ch. 125, Stats., related to full-service retail outlets. Denial or revocation of the approval does not affect any other outlet operated by the producer. If DAB approves an outlet, the producer's permit must particularly describe the premises constituting the outlet; these premises are then considered part of the premises under the permit.

Relocation of Full-Service Retail Outlet

Upon notice to DAB, a producer may relocate a full-service retail outlet to another location in the state. One outlet may be relocated without limitation on frequency; any other outlet may be moved to a new location once per calendar year.⁷

Closing Hours

Act 73 also establishes uniform closing hours for retail sales from a producer's production premises and full-service retail outlets to match those applicable to retailers in the municipality. A producer may not sell alcohol beverages for on-premises consumption during the closing hours applicable to a Class "B" licensee. These hours are generally between 2:30 a.m. and 6 a.m. on Saturday and Sunday and 2 a.m. and 6 a.m. the rest of the week. Likewise, a producer may not sell alcohol beverages for off-premises consumption during the hours in which a Class "B" licensee in that municipality may not make retail sales for off-premises consumption. These hours are between midnight and 6 a.m., unless the municipality has enacted an ordinance that imposes more restrictive hours.⁸

¹ Act 73 does not extend these provisions to brewpubs, the other type of production permit. [s. 125.295, Stats. (All references are to the 2023-24 statutes, as affected by 2023 Wisconsin Act 73, unless otherwise noted.)] For more information on the other alcohol-related provisions in Act 73, see Legislative Council, *Changes to the Regulation of Alcohol Beverages Under 2023 Wisconsin Act 73, Information Memorandum* (December 7, 2023).

² Act 73 allows the operation of an off-site retail outlet only by brewers that are not otherwise eligible to engage in full-service retail sales. [s. 125.29 (3) (f) and (7) (h), Stats.]

³ ss. 125.29 (3), 125.52 (1), and 125.53 (1), 2021-22 Stats.

⁴ ss. 125.20 (2), 125.29 (3) (e) and (f) and (6), 125.52 (4), and 125.53 (3) (a) and (e), Stats. Brewers were also allowed to operate a restaurant on the production premises and at an off-site retail outlet prior to the enactment of Act 73. [s. 125.29 (6), 2021-22 Stats.] Also, for any winery holds a retail license immediately preceding May 1 for a location other than winery premises, that location is considered part of the winery premises for purposes of retail sales authorization and may be kept in addition to any full-service retail outlets. [s. 125.53 (3) (a) 3., Stats.]

⁵ ss. 125.29 (7) (a) 2. and (c), 125.52 (4) (a) 2. and (c), and 125.53 (3) (a) 2. and (c), Stats.

⁶ ss. 125.29 (7) (b) and (f), 125.52 (4) (b) and (f), and 125.53 (3) (b) and (f), Stats.

⁷ ss. 125.29 (7) (d) and (g), 125.52 (4) (d) and (g), and 125.53 (3) (d) and (g), Stats.

⁸ ss. 125.29 (8); 125.32 (3) (a), (am), and (d); 125.52 (5); and 125.53 (4), Stats.