



State of Wisconsin • DEPARTMENT OF REVENUE

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Governor

Richard G. Chandler
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TO: Legislative Council Study Committee on Alcohol Beverages Enforcement

FROM:  Michael Wagner, Assistant Deputy Secretary, Department of Revenue

RE: DOR Presentations Follow-Up

DATE: November 12, 2018

This memo is in response to questions from committee members at and after the Department of Revenue's presentation to the Committee on July 22, 2018.

1. *How many criminal alcohol cases were investigated in the past year?*

DOR completed 806 investigations in FY 2018. Cases are not separated by alcohol and/or tobacco because many cases involve both. Of the 806 investigations, we completed 162 permit background investigations.

2. *What was the nature of these complaints/investigations by number (e.g. tied-house, refilling, illegal pricing, underage, moonshine)?*

We do not have a total of investigations by nature/subject.

3. *How many alcohol cases were referred for prosecution?*

In FY 2018, DOR referred six cases to a district attorney/Attorney General for prosecution of Chapter 125 violations. This does not include cases where we worked with municipalities, which resulted in local citations. Our first priority is compliance. Most investigations result in education and voluntary compliance, negating the need to refer for prosecution.

4. *How many cases referred resulted in criminal complaints being issued? In those alcohol cases actually prosecuted, what was the outcome?*

Four of the six cases have resulted in criminal complaints being issued. Outcomes ranged from fines to probation to deferred sentences/prosecution.

5. *How many alcohol licenses/permits has DOR/Alcohol and Tobacco held hearings on for revocation/suspension/non-renewal? What is the hearing process?*

DOR does not hold hearings on revocations/suspensions/non-renewals for alcohol beverage licenses. These hearings are held by local governments or courts. With regard to permits, we have not held any hearings for revocation or suspension of permits in recent years. Since 2011 when these records began to be kept electronically, there have been 77 alcohol beverage permits

that have not been renewed for various reasons such as failing to post security or not meeting the qualifications of the permit.

6. *How many alcohol licenses/permits were suspended/revoked/not renewed by DOR for alcohol violations (not including revocations due to delinquent sales tax or revoked seller's permits)?*

Municipalities handle non-renewals/suspensions/revocations for alcohol beverage licenses. Municipalities annually report the name and address of each person holding alcohol beverage licenses issued by the municipality, and DOR prepares a report listing all alcohol beverage licensees reported to the department. We do not receive information from municipalities on the number of licenses suspended/revoked/not renewed by municipalities based on investigations or information provided by DOR personnel.

As noted in the response to Question 5, since 2011 when these records began to be kept electronically, there have been 77 alcohol beverage permits that have not been renewed for various reasons such as failing to post security or not meeting the qualifications of the permit.

7. *How many underage operations compliance checks were initiated by the Alcohol and Tobacco (A&T) Unit?*

DOR agents assist local law enforcement, including municipal police departments and county sheriff's offices, who initiate underage compliance checks.

8. *Does A&T have a specific written mission/goals/objectives? How does what A&T is doing measure up against this mission? To answer this question consider, for example, what does A&T consider to be a "crime of statewide nature, importance, or influence." Also, how many such investigations has A&T completed and what were the results?*

We have a department-wide mission statement with goals that all offices and units are expected to follow. Offices and units with the department have their own business plans/objectives. We will develop a specific plan for the Alcohol and Tobacco Enforcement Unit as we reorganize the unit.

9. *What percentage of DOR's enforcement staff is spent on enforcing illegal activity related to gambling machines, tobacco, and alcohol?*

The vast majority of the enforcement staff's time is spent on enforcing illegal activity related to gambling machines, tobacco, and alcohol. The remaining time is spent on activities such as permit background investigations, training and educational outreach, responding to inquiries, evidence management, policy maintenance, responding to open records requests, assisting other DOR work units, legislative analysis, human resource obligations, public safety duties, and other miscellaneous activities.

10. How many enforcement cases have there been per year (say since 2000) and can those cases be broken down into categories like Retailer Alcohol/ Retailer Tobacco/ Retailer Gambling/ Wholesale Tobacco/ Wholesale Alcohol/ Manufacturer Tobacco/ Manufacturer Alcohol?

4,035 cases have been closed by the ATE Unit since 2012, the year that we started electronically tracking this information. The cases are not broken down by the suggested categories. However, they can be broken down by business type, as follows:

Retailers	72%
Wholesalers	4%
Wineries	2%
Breweries	5%
Brewpubs	1%
Other	15%
Non-business	1%

11. What licenses were businesses allowed to hold in the following years, 2000, 2002, 2008, and 2012?

o **2000**

BREWERY

1. May maintain and operate one place on brewery premises and one place on real estate owned by the brewer or a subsidiary or affiliate corporation or LLC for the sale of fermented malt beverages (a Class "B" license required for each place) but not more than 2 licenses issued to any one brewer.
2. A "small" brewer (a brewer that manufactures less than 4,000 barrels of beer annually) may possess a Class "B" license for not more than 4 restaurants in each of which the sale of alcohol beverages accounts for less than 50% of gross receipts, and in which beer manufactured by a brewer other than the small brewer is offered for sale.
3. May hold a fermented malt beverage wholesaler's license and a liquor wholesaler's permit for the sale of wine only.
4. May hold a "Class B" license for the brewery premises.

BREW PUB

1. Not yet authorized, created in 2007 Act 20.

LIQUOR MANUFACTURER/RECTIFIER

1. May not make sales for consumption on the premises of the permittee.
2. May sell intoxicating liquor from the premises described in the permit.
3. May not hold any direct or indirect interest in any "Class A", "Class B", or "Class C" license.
4. May not hold any direct or indirect interest in any wholesale permit.
5. Is not prohibited from holding a Class "B" license.

WINERY

1. May hold either a "Class A" or "Class B" license, but not both.
2. May not hold any direct or indirect interest in any "Class A", "Class B", or "Class C" licenses besides the one "Class A" or "Class B" license held by the winery.
3. May not hold any direct or indirect interest in any wholesale permit.

4. Is not prohibited from holding a Class "B" license.

o **2002**

BREWERY

1. May maintain and operate one place on brewery premises and one place on real estate owned by the brewer or a subsidiary or affiliate corporation or LLC for the sale of fermented malt beverages (a Class "B" license required for each place) but not more than two licenses issued to any one brewer.
2. May hold a Class "A" license.
3. May possess or hold an indirect interest in a Class "B" license for not more than 20 restaurants in each of which sale of alcohol beverages accounts for less than 60% of the restaurant's gross receipts if no fermented malt beverages manufactured by the brewer are offered for sale in any of those restaurants.
4. A "small" brewer (a brewer that manufactures less than 4,000 barrels of beer annually) may possess a Class "B" license for not more than four restaurants in each of which the sale of alcohol beverages accounts for less than 50% of gross receipts, and in which beer manufactured by a brewer other than the small brewer is offered for sale.
5. May hold a fermented malt beverage wholesaler's license.

BREW PUB

1. Not yet authorized, created in 2007 Act 20.

LIQUOR MANUFACTURER/RECTIFIER

1. May not make sales of liquor for consumption on the premises of the permittee.
2. May sell intoxicating liquor from the premises described in the permit.
3. May not hold any direct or indirect interest in any "Class A", "Class B", or "Class C" license.
4. May not hold any direct or indirect interest in any wholesale permit.
5. Is not prohibited from holding a Class "B" license.

WINERY

1. May hold either a "Class A" or "Class B" license, but not both.
2. May not hold any direct or indirect interest in any "Class A", "Class B", or "Class C" licenses besides the one "Class A" or "Class B" license held by the winery.
3. May not hold any direct or indirect interest in any wholesale permit.
4. Is not prohibited from holding a Class "B" license.

o **2008**

BREWERY

1. May maintain and operate one place on brewery premises and one place on real estate owned by the brewer or a subsidiary or affiliate corporation or LLC for the sale of fermented malt beverages (a Class "B" license required for each place) but not more than two licenses issued to any one brewer.
2. May hold a Class "A" license.
3. May possess or hold an indirect interest in a Class "B" license for not more than 20 restaurants in each of which sale of alcohol beverages accounts for less than 60%

- of the restaurant's gross receipts if no fermented malt beverages manufactured by the brewer are offered for sale in any of those restaurants.
4. May hold a fermented malt beverage wholesaler's license.

BREW PUB

1. Manufactures not more than 10,000 barrels in a calendar year (a brewpub group of not more than six brewpub premises).
2. May sell not more than 1,000 barrels in a calendar year to retailers (not including sales to the brewpub group).
3. Entire process for manufacturing fermented malt beverages must occur on premises covered by the permit.
4. Must operate a restaurant on the brewpub premises.
5. Must hold a Class "B" license for the restaurant premises.
6. May not have a direct or indirect ownership interest in a Class "A" premises or a Class "B" premises other than the brewpub's Class "B" restaurant premises.
7. May hold a "Class B" or a "Class C" license for the restaurant on brewpub premises.

LIQUOR MANUFACTURER/RECTIFIER

1. May not make sales of liquor for consumption on the premises of the permittee.
2. May sell intoxicating liquor from the premises described in the permit to wholesalers, wineries and other liquor manufacturers, and rectifiers.
3. May not hold any direct or indirect interest in any "Class A", "Class B", or "Class C" license.
4. May not hold any direct or indirect interest in any wholesale permit.
5. Is not prohibited from holding a Class "B" license.

WINERY

1. May hold either one "Class A" or one "Class B" license, but not both. The license may be issued for the winery premises or for real estate owned or leased by the winery.
2. May not hold any direct or indirect interest in any "Class A", "Class B", or "Class C" licenses besides the one "Class A" or "Class B" license held by the winery.
3. May not hold any direct or indirect interest in any wholesale permit.
4. Is not prohibited from holding a Class "B" license.

o 2012

BREWERY

1. No person holding a Class "A" license, Class "B" license or permit, or wholesaler's permit may register as a brewer.
2. May hold an ownership interest of less than 50 percent in a wholesaler, if this interest will not occur for more than three years.
3. May make retail sales for off-premises and on-premises consumption.
4. May make retail sales of intoxicating liquor, for on-premises consumption at the brewery or an off-site retail outlet established by the brewery, if the brewer held, on June 1, 2011, a license or permit authorizing the retail sale of intoxicating liquor, and if the liquor is purchased from a liquor wholesaler.
5. May make direct sales to retail licensees, if the brewer manufactures 300,000 or less barrels of fermented malt beverages in a calendar year.

6. No person holding a brewpub permit may register as a brewer.
7. May operate a restaurant on the brewery premises and at an off-site retail outlet established by the brewer. A brewer may not operate a restaurant at any other location except the brewer may possess or hold an indirect interest in a Class "B" license for not more than 20 restaurants in each of which the sale of alcohol beverages accounts for less than 60% of the restaurant's gross receipts if no fermented malt beverages manufactured by the brewer are offered for sale in any of those restaurants.

BREW PUB

1. Manufactures not more than 10,000 barrels in a calendar year (a brewpub group of not more than six brewpub premises).
2. May sell not more than 1,000 barrels in a calendar year to retailers (not including sales by members of the brewpub group).
3. Entire process for manufacturing fermented malt beverages must occur on premises covered by the permit.
4. Must operate a restaurant on the brewpub premises.
5. Must hold a Class "B" license for the restaurant premises.
6. May not have a direct or indirect ownership interest in a Class "A" premises, a Class "B" premises other than the brewpub's Class "B" restaurant premises.
7. May hold a "Class B" or a "Class C" license for the restaurant on brewpub premises.

LIQUOR MANUFACTURER/RECTIFIER

1. May make retail sales of intoxicating liquor that is manufactured or rectified on the premises for consumption on or off the premises.
2. May sell intoxicating liquor from the premises described in the permit to wholesalers, wineries and other liquor manufacturers, and rectifiers.
3. May not hold any direct or indirect interest in any "Class A", "Class B", or "Class C" license.
4. May not hold any direct or indirect interest in any wholesale permit.
5. Is not prohibited from holding a Class "B" license.

WINERY

1. May hold either one "Class A" or one "Class B" license, but not both. The license may be issued for the winery premises or for real estate owned or leased by the winery.
2. May not hold any direct or indirect interest in any "Class A", "Class B", or "Class C" license, besides the "Class A" or "Class B" license held by the winery.
3. May not hold any direct or indirect interest in any wholesale permit.
4. Is not prohibited from holding a Class "B" license.

12. *Who can hold what license? Can we get a B-L-T (bacon/lettuce/tomato) explanation of what licenses a winery/brewery/manufacturer MUST hold in order to operate TODAY? AND Can we then get a break down as to if a winery was also a brewery AND a liquor manufacturer what licenses they would have and what "rights" they would have as it relates to acting as a retailer/wholesaler/manufacturer?*

Providing a breakdown of the activities authorized with specific permits and the rights to hold retail licenses will depend upon the facts of each particular combination of permits. The ability

of a permit holder to also hold retail licenses is case specific, depending upon which separate alcohol beverage permits are combined. We include an accounting of the requirements and authorized activities associated with each type of alcohol beverage permit issued by the department:

WINERY - Sec.125.53, Wis. Stats.

- Must hold a winery permit from DOR prior to the manufacture and sale of wine. Permit authorizes the manufacture and bottling of wine. Permit authorizes sale to liquor wholesaler permittees, but does not authorize retail sales. (A municipal retail license issued by a municipality is **required** for a winery to make retail sales of wine).
- May not hold any direct or indirect interest in any wholesale permit or establishment.
- Must hold a Business Tax Registration.
- Must file a surety bond guaranteeing the payment of intoxicating liquor tax.
- May hold either one "Class A" or one "Class B" retail license, but not both, for the winery premises or for real estate owned or leased by the winery.
- May offer taste samples of wine manufactured on the winery premises.
- Is not prohibited from holding a Class "B" license.

LIQUOR MANUFACTURER/RECTIFIER (DISTILLERY) - Sec. 125.52, Wis. Stats.

- Must hold a liquor manufacturer/rectifier permit from DOR prior to the manufacture and sale of intoxicating liquor. Permit authorizes manufacture or rectification of intoxicating liquor and the manufacture and bottling of wine (without procuring a winery permit). Permit authorizes sale to liquor wholesaler permittee and authorizes retail sale of intoxicating liquor manufactured/rectified on the premises for consumption on or off the premises. A liquor manufacturer/rectifier is prohibited from holding any direct or indirect interest in any "Class A", "Class B", or "Class C" license or establishment.
- May hold no direct or indirect interest in any wholesale permit or establishment.
- Must hold a Business Tax Registration.
- Must file a surety bond guaranteeing the payment of intoxicating liquor tax.
- May offer taste samples of intoxicating liquor manufactured on the manufacturer/rectifier premises.
- Is not prohibited from holding a Class "B" license.

BREWERY - Sec. 125.29, Wis. Stats.

- Must hold a brewer's permit from DOR prior to the manufacture and sale of fermented malt beverages. Permit authorizes manufacture of fermented malt beverages, and the bottling, packaging, possession, and storage of fermented malt beverages on the brewery premises. Permit authorizes sale of fermented malt beverages to wholesalers and authorizes retail sale of fermented malt beverages manufactured on the premises/or other premises of the brewer at the brewery premises or an off-site retail outlet established by the brewer. Permit also authorizes the retail sale of fermented malt beverages that were manufactured on another brewery premises in Wisconsin, if purchased from a permitted wholesaler or a permitted brewery that qualifies to self-distribute (No person holding a Class "A" or Class "B" license may register as a brewer. A brewer which held a license or permit authorizing the sale of intoxicating liquor on June 1, 2011 is authorized to continue to sell intoxicating liquor for on-premises consumption).
- May operate a restaurant on the brewery premises and at an off-site retail outlet established by the brewer. May not operate a restaurant at any other location.

- May possess an indirect interest in a Class "B" license for not more than 20 restaurants in each of which the sale of alcohol beverages accounts for less than 60 percent of restaurant gross receipts, if no fermented malt beverages manufactured by the brewer are offered for sale in any of these restaurants.
- May hold an ownership interest of less than 50 percent in a wholesaler if this interest will not occur for more than three years.
- Must hold a Business Tax Registration.
- Must file a surety bond guaranteeing the payment of fermented malt beverage tax.
- May sell fermented malt beverages manufactured on the brewery premises directly to retailers if the brewer manufactures 300,000 or less barrels of fermented malt beverages in a calendar year.
- May offer taste samples of fermented malt beverages.

BREW PUB - Sec. 125.295, Wis. Stats.

- Must hold a brewpub permit from DOR prior to the manufacture and sale of fermented malt beverages. Permit authorizes manufacture of not more than 10,000 barrels of fermented malt beverages by the permittee's brewpub group in a calendar year. Permit authorizes sale of fermented malt beverages to wholesalers and authorizes the sale of not more than 1,000 barrels of fermented malt beverages manufactured on the brewpub premises to retailers.
- No person holding a brewpub permit may register as a brewer.
- The entire process for manufacturing fermented malt beverages must occur on premises covered by a brewpub permit.
- Must operate a restaurant on the brewpub premises and must hold a Class "B" retail license for the restaurant.
- May not possess a direct or indirect ownership interest in a Class "A" license, additional Class "B" licenses for premises other than those of the brewpub group, or a wholesaler's permit.
- May hold a "Class B" or "Class C" license for the restaurant on the brewpub premises.
- Must hold a Business Tax Registration.
- Must file a surety bond guaranteeing the payment of fermented malt beverage tax.