



## 2015 ASSEMBLY BILL 391

October 12, 2015 – Introduced by Representatives BALLWEG, BILLINGS, E. BROOKS, DANOU, GENRICH, JOHNSON, KREMER, KRUG, LOUDENBECK, MACCO, MURPHY, MURSAU, A. OTT, RODRIGUEZ, SANFELIPPO, TAUCHEN, C. TAYLOR, THIESFELDT, WACHS, ZEPNICK, KOOYENGA and NERISON, cosponsored by Senators KAPENGA, MARKLEIN, RINGHAND, ROTH, STROEBEL and VUKMIR. Referred to Committee on State Affairs and Government Operations.

1     **AN ACT to amend** 125.25 (1), 125.29 (3) (f) and 125.29 (3) (g); and **to create** 125.02  
2           (6g), 125.25 (5), 125.29 (3) (k) and (L) and 125.33 (5m) of the statutes; **relating**  
3     **to:** authorized activities of Class A beer retailers and of brewers.

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### *Analysis by the Legislative Reference Bureau*

Under current law, with limited exceptions, no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. A Class “A” license authorizes the retail sale of fermented malt beverages (beer), in original containers, for consumption off the licensed premises and is generally held by such retailers as grocery stores, liquor stores, and convenience stores. A Class “B” license authorizes the retail sale of beer for consumption on or off the licensed premises and is generally held by such retailers as taverns and restaurants. Current law generally prohibits a brewer, brewpub, or beer wholesaler from furnishing anything of value to a Class “B” beer retailer, but there are many exceptions, including for selling to the retailer equipment and supplies at fair market value. This prohibition does not apply with respect to a Class “A” beer retailer.

This bill authorizes Class “A” beer retailers to sell beer in growlers that are filled and sealed on the retail licensed premises. The bill defines “growler” as a refillable and resealable container exceeding 24 ounces in volume used to package beer for consumption away from the property where sold. The bill also generally prohibits a brewer, brewpub, or beer wholesaler from furnishing anything of value to a Class “A” beer retailer that sells beer in growlers if the thing of value is associated with or related to the sale of beer in growlers. However, there are various exceptions, including for selling to the retailer equipment and supplies at fair market value.

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Under current law, a brewer holding a brewer's permit may, among other activities authorized under its brewer's permit: 1) manufacture, bottle, package, and store beer on the brewery premises; 2) sell and deliver the brewer's own beer to wholesalers; 3) if the brewer produces 300,000 or fewer barrels of beer per year, sell and deliver its own beer to retailers; and 4) sell at retail, without a retail license, the brewer's own beer and other Wisconsin-made beer at the brewery premises and at one off-site retail outlet of the brewer.

This bill authorizes a brewer, at the request of a customer, to package and sell at retail, on brewery premises or at the brewer's off-site retail outlet, growlers of the brewer's own beer and of other Wisconsin-made beer.

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

1           **SECTION 1.** 125.02 (6g) of the statutes is created to read:

2           125.02 (6g) "Growler" means a refillable and resealable container exceeding  
3           24 ounces in volume used to package fermented malt beverages for consumption  
4           away from the property where sold.

5           **SECTION 2.** 125.25 (1) of the statutes is amended to read:

6           125.25 (1) Every municipal governing body may issue Class "A" licenses for the  
7           sale of fermented malt beverages from premises within the municipality. A Class "A"  
8           license authorizes retail sales of fermented malt beverages for consumption off the  
9           premises where sold and in original packages, containers, and bottles or in growlers  
10          filled and sealed on the licensed premises. A Class "A" license also authorizes the  
11          licensee to provide, free of charge, to customers and visitors who have attained the  
12          legal drinking age fermented malt beverages taste samples that are not in original  
13          packages, containers, or bottles and that do not exceed 3 fluid ounces each, for  
14          consumption on the Class "A" premises. No Class "A" licensee may provide more  
15          than 2 taste samples per day to any one person. Taste samples may be provided  
16          under this subsection only between the hours of 11 a.m. and 7 p.m. Any other  
17          provision of this chapter applicable to retail sales of fermented malt beverages by a

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1 Class "A" licensee also applies to the provision of taste samples, free of charge, of  
2 fermented malt beverages by a Class "A" licensee. A license may be issued after July  
3 1. That license shall expire on the following June 30.

4 **SECTION 3.** 125.25 (5) of the statutes is created to read:

5 125.25 (5) No permit under s. 125.29 or 125.295 is required for a licensee under  
6 this section to fill growlers with fermented malt beverages as provided in sub. (1).

7 **SECTION 4.** 125.29 (3) (f) of the statutes is amended to read:

8 125.29 (3) (f) Notwithstanding ss. 125.04 (9) and 125.09 (1), the retail sale to  
9 individuals of fermented malt beverages, in original unopened packages or  
10 containers or in growlers packaged under par. (k), that have been manufactured on  
11 the brewery premises or on other premises of the brewer for off-premise  
12 consumption by individuals, if the sale occurs at the brewery premises or at an  
13 off-site retail outlet established by the brewer.

14 **SECTION 5.** 125.29 (3) (g) of the statutes is amended to read:

15 125.29 (3) (g) Notwithstanding ss. 125.04 (9) and 125.09 (1), the retail sale of  
16 fermented malt beverages, for on-premise consumption or for off-premise  
17 consumption in original unopened packages or containers or in growlers packaged  
18 under par. (L), that have been manufactured on another brewery premises in this  
19 state if the fermented malt beverages have been purchased by the brewer from a  
20 wholesaler holding a permit under s. 125.28 or from another brewery located in this  
21 state that manufactures 300,000 or less barrels of beer in a calendar year.

22 **SECTION 6.** 125.29 (3) (k) and (L) of the statutes are created to read:

23 125.29 (3) (k) The packaging in growlers, at the request of a customer and on  
24 brewery premises or an off-site retail outlet established by the brewer, of fermented  
25 malt beverages that have been manufactured by the brewer.

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1 (L) The packaging in growlers, at the request of a customer and on brewery  
2 premises or an off-site retail outlet established by the brewer, of fermented malt  
3 beverages that have been manufactured on another brewery premises in this state  
4 if the fermented malt beverages have been purchased by the brewer from a  
5 wholesaler holding a permit under s. 125.28 or from another brewery located in this  
6 state that manufactures 300,000 or less barrels of beer in a calendar year.

7 **SECTION 7.** 125.33 (5m) of the statutes is created to read:

8 125.33 (5m) CLASS "A" LICENSEES SELLING GROWLERS. (a) 1. Except as provided  
9 in pars. (b) and (c), no brewer, brewpub, or wholesaler may furnish, give, lend, lease,  
10 or sell any furniture, fixtures, fittings, equipment, money, or other thing of value to  
11 any Class "A" licensee, or to any person for the use, benefit, or relief of any Class "A"  
12 licensee, or guarantee the repayment of any loan or the fulfillment of any financial  
13 obligation of any Class "A" licensee, if all of the following apply:

14 a. The Class "A" licensee sells fermented malt beverages in growlers.

15 b. The furniture, fixtures, fittings, equipment, money, or other thing of value,  
16 or the guarantee of repayment of a loan or fulfillment of a financial obligation of the  
17 Class "A" licensee, is associated with or related to the sale of fermented malt  
18 beverages in growlers.

19 2. Any action prohibited under subd. 1. may not be taken by the brewer,  
20 brewpub, or wholesaler directly or indirectly, or through a subsidiary or affiliate  
21 corporation or limited liability company, or by any officer, director, stockholder,  
22 partner, or member of any of these entities.

23 (b) A brewer, brewpub, or wholesaler may do any of the following:

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1           1. Sell at fair market value to a Class “A” licensee equipment and other supply  
2 items used in the consumption or sale of fermented malt beverages in growlers, such  
3 as growlers and growler caps.

4           2. Sell to a Class “A” licensee at fair market value equipment designed and  
5 intended to preserve and maintain the sanitary dispensing of fermented malt  
6 beverages into growlers or any services necessary to maintain this kind of  
7 equipment. A brewer, brewpub, or wholesaler shall charge the same price per unit  
8 of equipment to each Class “A” licensee making the same or a similar purchase, and  
9 shall charge the same rate to each Class “A” licensee purchasing maintenance  
10 services under this subdivision. Each brewer, brewpub, or wholesaler shall keep  
11 records of each transaction under this subdivision and shall make the records  
12 available to the department upon request.

13           3. Sell at fair market value dispensing or tapping equipment associated with  
14 or related to the sale of fermented malt beverages in growlers to Class “A” licensees  
15 for cash or on credit for not more than 2 years. Credit sales of equipment shall be  
16 evidenced by a written contract stating the terms, conditions, and monthly  
17 payments. Within 10 days after the execution of the contract, the seller shall record  
18 the contract with the register of deeds for the county in which the equipment is  
19 installed.

20           4. Sell for a fair consideration any services for cleaning or maintenance of  
21 dispensing or tapping equipment associated with or related to the sale of fermented  
22 malt beverages in growlers to Class “A” licensees for cash or on credit for not more  
23 than 2 years.

24           5. Sell fermented malt beverages to Class “A” licensees or purchase fermented  
25 malt beverages in growlers from Class “A” licensees.

