



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2761/1
ARG:kjf&amn

2021 SENATE BILL 266

March 31, 2021 - Introduced by Senator LEMAHIEU, cosponsored by Representatives VORPAGEL and KATZMA. Referred to Committee on Financial Institutions and Revenue.

1 **AN ACT to renumber and amend** 125.12 (5); **to amend** 125.32 (3) (c) and 125.68
2 (4) (c) 4.; and **to create** 125.07 (3) (a) 17., 125.12 (5) (b), 125.26 (2v), 125.27 (5),
3 125.32 (3m) (k), 125.51 (3) (bv) and 125.51 (5) (f) of the statutes; **relating to:**
4 the issuance by the Department of Revenue of retail alcohol beverage permits
5 for motor vehicle racetrack grounds and authorizing caterers to make retail
6 sales of alcohol beverages on racetrack grounds.

Analysis by the Legislative Reference Bureau

This bill authorizes the Department of Revenue to issue retail alcohol beverage permits for motor vehicle racetrack grounds. This bill also authorizes caterers to make retail sales of alcohol beverages on racetrack grounds.

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. Municipalities may issue retail Class "B" licenses authorizing the sale of fermented malt beverages (beer), and retail "Class B" licenses authorizing the sale of intoxicating liquor, which includes wine and distilled spirits, to consumers. Under certain circumstances, DOR may issue retail Class "B" and "Class B" permits authorizing the retail sale of beer and intoxicating liquor to consumers.

This bill authorizes DOR to issue retail Class "B" and "Class B" permits for racetrack grounds. The bill defines "racetrack grounds" as property consisting of at least 300 acres containing a motor vehicle racetrack at least four miles in length

SENATE BILL 266

capable of hosting professional racing events, and includes any building or other structure on this property associated with the racetrack or with services provided in connection with events held at the racetrack. Under the bill, DOR may issue Class “B” and “Class B” permits, for locations within racetrack grounds, to the owner or operator of the racetrack grounds or to any person designated by the owner or operator of the racetrack grounds to operate premises located within the racetrack grounds. Class “B” and “Class B” permits issued by DOR for racetrack grounds authorize the retail sale of beer and intoxicating liquor at the location within the racetrack grounds specified in the permit, for possession and consumption anywhere within the racetrack grounds. Class “B” and “Class B” permits do not authorize the sale of beer and intoxicating liquor for consumption away from the racetrack grounds and do not authorize the sale of beer and intoxicating liquor at any designated camping area on racetrack grounds while the area is in use for camping. The bill contains an exception allowing underage persons to be present on those locations at racetrack grounds for which Class “B” or “Class B” permits are issued.

Current law generally requires a retail licensee to make retail sales of alcohol beverages only in a face-to-face transaction on the retail licensed premises, although the retail licensee may thereafter deliver and serve the alcohol beverages at another location. An exception allows a caterer to make retail sales off its licensed premises during a special event held at the National Railroad Museum in Green Bay or at the Heritage Hill State Park, if no retail license has been issued for this museum or park. A “caterer” is defined as a person who holds a restaurant license and who is in the business of preparing food and transporting it for consumption at gatherings, meetings, or events if the sale of food at each gathering, meeting, or event accounts for greater than 50 percent of the gross receipts of all of the food and beverages served at the gathering, meeting, or event.

This bill allows a caterer to make retail sales of alcohol beverages off its licensed premises on racetrack grounds, except at a designated camping area while the area is in use for camping and except on premises for which DOR has issued a retail permit for the racetrack grounds.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 125.07 (3) (a) 17. of the statutes is created to read:

2 125.07 (3) (a) 17. Premises for which a Class “B” permit is issued under s.
3 125.27 (5) or a “Class B” permit is issued under s. 125.51 (5) (f).

4 **SECTION 2.** 125.12 (5) of the statutes is renumbered 125.12 (5) (a) and amended
5 to read:

SENATE BILL 266

1 125.12 (5) (a) The department may, after notice and an opportunity for hearing,
2 revoke, suspend, or refuse to renew any retail permit issued by it for the causes
3 provided in sub. (4) and any other permit issued by it under this chapter for any
4 violation of this chapter or ch. 139, except that, for ~~a violation of sub. (4) (ag) 6. with~~
5 ~~respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or~~
6 139.035, the department shall revoke the license ~~or~~ permit.

7 (c) A revocation, suspension, or refusal to renew a permit under par. (a) or (b)
8 is a contested case under ch. 227.

9 **SECTION 3.** 125.12 (5) (b) of the statutes is created to read:

10 125.12 (5) (b) The department may, after notice and an opportunity for hearing,
11 revoke any permit issued under s. 125.27 (5) or 125.51 (5) (f) to a person designated
12 by the owner or operator of racetrack grounds as provided in s. 125.27 (5) (b) or 125.51
13 (5) (f) 2. if the person's designation has terminated or the owner or operator of the
14 racetrack grounds has otherwise rescinded the person's designation.

15 **SECTION 4.** 125.26 (2v) of the statutes is created to read:

16 125.26 (2v) (a) Subject to pars. (b) and (c), and notwithstanding ss. 125.04 (3)
17 (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization specified
18 in sub. (1), a Class "B" license issued under this section to a caterer also authorizes
19 the caterer to provide fermented malt beverages, including their retail sale, on
20 racetrack grounds, as defined in s. 125.27 (5) (a). Subject to pars. (b) and (c), and
21 notwithstanding sub. (1) and s. 125.32 (6) (a), a caterer may provide fermented malt
22 beverages under this paragraph at any location on racetrack grounds even though
23 the racetrack grounds are not part of the caterer's licensed premises, as described
24 under sub. (3) in the caterer's Class "B" license, and even if the racetrack grounds
25 are not located within the municipality that issued the caterer's Class "B" license.

SENATE BILL 266**SECTION 4**

1 A caterer that provides fermented malt beverages under this paragraph is subject
2 to s. 125.32 (2) and (3) as if the fermented malt beverages were provided on the
3 caterer's Class "B" licensed premises.

4 (b) A caterer may not provide fermented malt beverages under par. (a) at any
5 designated camping area on racetrack grounds while the area is in use for camping.

6 (c) A caterer may not provide fermented malt beverages under par. (a) on any
7 premises covered by a permit issued under s. 125.27 (5) or 125.51 (5) (f).

8 **SECTION 5.** 125.27 (5) of the statutes is created to read:

9 125.27 (5) PERMITS FOR RACETRACK GROUNDS. (a) In this subsection, "racetrack
10 grounds" means real property consisting of at least 300 acres containing a motor
11 vehicle racetrack at least 4 miles in length capable of hosting professional racing
12 events, and includes any building or other structure on this property associated with
13 the racetrack or with services provided in connection with events held at the
14 racetrack.

15 (b) The department may issue Class "B" permits for locations within racetrack
16 grounds to any person that holds a valid certificate issued under s. 73.03 (50), that
17 is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the
18 racetrack grounds or is designated by the owner or operator of the racetrack grounds
19 to operate premises located within the racetrack grounds. Subject to par. (e), the
20 permit authorizes the retail sale of fermented malt beverages on the premises
21 covered by the permit, for consumption anywhere within the racetrack grounds. If
22 the department issues more than one permit under this subsection for the same
23 racetrack grounds, no part of the premises covered by a permit under this subsection
24 may overlap with premises covered by any other permit issued under this subsection.

SENATE BILL 266

1 (c) Persons holding a permit under par. (b) may sell beverages containing less
2 than 0.5 percent of alcohol by volume without obtaining a license under s. 66.0433.

3 (d) Subject to ss. 125.07 (3) (a) 17. and 125.32 (3) (c) and (3m) (k), all provisions
4 of this chapter applying to Class “B” licenses apply to Class “B” permits issued under
5 this subsection, except as follows:

6 1. A permit issued under this subsection does not authorize retail sales of
7 fermented malt beverages for consumption off the racetrack grounds.

8 2. A permit issued under this subsection authorizes the retail sale of fermented
9 malt beverages for possession and consumption off the premises where sold if the
10 possession and consumption occurs within the racetrack grounds.

11 (e) A permit issued under this subsection does not authorize retail sales of
12 fermented malt beverages at any designated camping area on racetrack grounds
13 while the area is in use for camping.

14 (f) The department shall establish a fee for a permit issued under this
15 subsection in the amount of 50 percent of the fee for a permit issued under sub. (1).

16 **SECTION 6.** 125.32 (3) (c) of the statutes is amended to read:

17 125.32 (3) (c) Hotels and restaurants the principal business of which is the
18 furnishing of food and lodging to patrons, bowling centers, movie theaters, painting
19 studios, indoor golf and baseball facilities, racetrack grounds, as defined in s. 125.27
20 (5) (a), indoor horseshoe-pitching facilities, curling clubs, golf courses and golf
21 clubhouses may remain open for the conduct of their regular business but may not
22 sell fermented malt beverages during the hours specified in par. (a).

23 **SECTION 7.** 125.32 (3m) (k) of the statutes is created to read:

24 125.32 (3m) (k) Premises for which a Class “B” permit is issued under s. 125.27
25 (5).

SENATE BILL 266**SECTION 8**

1 **SECTION 8.** 125.51 (3) (bv) of the statutes is created to read:

2 125.51 (3) (bv) 1. Subject to subds. 2. and 3., and notwithstanding ss. 125.04
3 (3) (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization
4 specified in par. (a) or (b) and in sub. (1) (a), a “Class B” license issued under sub. (1)
5 to a caterer also authorizes the caterer to provide intoxicating liquor, including its
6 retail sale, on racetrack grounds, as defined in s. 125.27 (5) (a). Subject to subds. 2.
7 and 3., and notwithstanding pars. (a) and (b) and sub. (1) (a) and s. 125.32 (6) (a), a
8 caterer may provide intoxicating liquor under this subdivision at any location on
9 racetrack grounds even though the racetrack grounds are not part of the caterer’s
10 licensed premises, as described under par. (d) in the caterer’s “Class B” license, and
11 even if the racetrack grounds are not located within the municipality that issued the
12 caterer’s “Class B” license. A caterer that provides intoxicating liquor under this
13 subdivision is subject to s. 125.68 (2) and (4) as if the intoxicating liquor were
14 provided on the caterer’s “Class B” licensed premises.

15 2. A caterer may not provide intoxicating liquor under subd. 1. at any
16 designated camping area on racetrack grounds while the area is in use for camping.

17 3. A caterer may not provide intoxicating liquor under subd. 1. on any premises
18 covered by a permit issued under s. 125.27 (5) or 125.51 (5) (f).

19 **SECTION 9.** 125.51 (5) (f) of the statutes is created to read:

20 125.51 (5) (f) *Permits for racetrack grounds.* 1. In this paragraph, “racetrack
21 grounds” has the meaning given in s. 125.27 (5) (a).

22 2. The department may issue “Class B” permits for locations within racetrack
23 grounds to any person that holds a valid certificate issued under s. 73.03 (50), that
24 is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the
25 racetrack grounds or is designated by the owner or operator of the racetrack grounds

SENATE BILL 266

1 to operate premises located within the racetrack grounds. Subject to subd. 4., the
2 permit authorizes the retail sale of intoxicating liquor, by the glass and not in the
3 original package or container, on the premises covered by the permit, for
4 consumption anywhere within the racetrack grounds. If the department issues more
5 than one permit under this paragraph for the same racetrack grounds, no part of the
6 premises covered by a permit under this paragraph may overlap with premises
7 covered by any other permit issued under this paragraph.

8 3. Subject to ss. 125.07 (3) (a) 17. and 125.68 (4) (c) 4., all provisions of this
9 chapter applying to “Class B” licenses apply to “Class B” permits issued under this
10 paragraph, except as follows:

11 a. A permit issued under this paragraph does not authorize retail sales of
12 intoxicating liquor for consumption off the racetrack grounds.

13 b. A permit issued under this paragraph authorizes the retail sale of
14 intoxicating liquor for possession and consumption off the premises where sold if the
15 possession and consumption occurs within the racetrack grounds.

16 4. A permit issued under this paragraph does not authorize retail sales of
17 intoxicating liquor at any designated camping area on racetrack grounds while the
18 area is in use for camping.

19 5. The department shall establish a fee for a permit issued under this
20 paragraph in the amount of 50 percent of the fee for a permit issued under par. (a).

21 **SECTION 10.** 125.68 (4) (c) 4. of the statutes is amended to read:

22 125.68 (4) (c) 4. Hotels and restaurants the principal business of which is the
23 furnishing of food, drinks or lodging to patrons, bowling centers, movie theaters,
24 painting studios, racetrack grounds, as defined in s. 125.27 (5) (a), indoor
25 horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may

SENATE BILL 266

SECTION 10

1 remain open for the conduct of their regular business but may not sell intoxicating
2 liquor during the closing hours under subd. 1. or, with respect to the sale of
3 intoxicating liquor authorized under s. 125.51 (3r) (a), under subd. 3.

4 **SECTION 11. Effective date.**

5 (1) This act takes effect on the 30th day after the day of publication.

6 (END)