



2019 ASSEMBLY BILL 434

September 12, 2019 - Introduced by Representatives VORPAGEL and KATSMA, sponsored by Senator LEMAHIEU. Referred to Committee on State Affairs.

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 (3) (e), 125.32 (3m) (k), 125.51 (3) (bv), 125.51 (5) (f) and 125.68 (4) (d)
4 of the statutes; **relating to:** the issuance by the Department of Revenue of
5 retail alcohol beverage permits for motor vehicle racetrack grounds,
6 authorizing caterers to make retail sales of alcohol beverages on racetrack
7 grounds, and hours for retail sales by brewers.

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. The bill further establishes hours during which brewers may not make retail sales of alcohol beverages.

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.

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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 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.

Current law allows a brewer holding a brewer’s permit to sell at retail, without a retail license, beer for consumption on or off the brewery premises or the brewer’s off-site retail outlet. If the brewer held an intoxicating liquor license on June 1, 2011, the brewer may also sell at retail, without a retail license, intoxicating liquor for consumption on the brewery premises or the brewer’s off-site retail outlet. Current law does not specify permissible hours of sale for these retail sales by a brewer.

Also under current law, with limited exceptions, Class “B” or “Class B” licensed premises must be closed between the hours of 2 a.m. and 6 a.m. on weekdays and between the hours of 2:30 a.m. and 6 a.m. on weekends. A municipal ordinance may not impose different closing hours. However, a Class “B” licensed premises may not sell beer for off-premises consumption between the hours of midnight and 6 a.m. and a municipality may impose more restrictive hours.

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This bill prohibits a brewer from making retail sales of beer and intoxicating liquor during hours in which a Class “B” or “Class B” licensed premises must be closed. As with a Class “B” or “Class B” licensee, a municipality may not impose more restrictive hours for retail sales for on-premises consumption but may impose more restrictive hours for retail sales for off-premises consumption.

For further information see the *state and local* 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:

6 125.12 **(5)** (a) The department may, after notice and an opportunity for hearing,
7 revoke, suspend, or refuse to renew any retail permit issued by it for the causes
8 provided in sub. (4) and any other permit issued by it under this chapter for any
9 violation of this chapter or ch. 139, except that, for ~~a violation of sub. (4) (ag) 6. with~~
10 ~~respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or~~
11 139.035, the department shall revoke the license ~~or~~ permit.

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

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

15 125.12 **(5)** (b) The department may, after notice and an opportunity for hearing,
16 revoke any permit issued under s. 125.27 (5) or 125.51 (5) (f) to a person designated
17 by the owner or operator of racetrack grounds as provided in s. 125.27 (5) (b) or 125.51

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1 (5) (f) 2. if the person's designation has terminated or the owner or operator of the
2 racetrack grounds has otherwise rescinded the person's designation.

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

4 125.26 (2v) (a) Subject to pars. (b) and (c), and notwithstanding ss. 125.04 (3)
5 (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization specified
6 in sub. (1), a Class "B" license issued under this section to a caterer also authorizes
7 the caterer to provide fermented malt beverages, including their retail sale, on
8 racetrack grounds, as defined in s. 125.27 (5) (a). Subject to pars. (b) and (c), and
9 notwithstanding sub. (1) and s. 125.32 (6) (a), a caterer may provide fermented malt
10 beverages under this paragraph at any location on racetrack grounds even though
11 the racetrack grounds are not part of the caterer's licensed premises, as described
12 under sub. (3) in the caterer's Class "B" license, and even if the racetracks grounds
13 are not located within the municipality that issued the caterer's Class "B" license.
14 A caterer that provides fermented malt beverages under this paragraph is subject
15 to s. 125.32 (2) and (3) as if the fermented malt beverages were provided on the
16 caterer's Class "B" licensed premises.

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

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

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

22 125.27 (5) PERMITS FOR RACETRACK GROUNDS. (a) In this subsection, "racetrack
23 grounds" means real property consisting of at least 300 acres containing a motor
24 vehicle racetrack at least 4 miles in length capable of hosting professional racing
25 events, and includes any building or other structure on this property associated with

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1 the racetrack or with services provided in connection with events held at the
2 racetrack.

3 (b) The department may issue Class “B” permits for locations within racetrack
4 grounds to any person that holds a valid certificate issued under s. 73.03 (50), that
5 is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the
6 racetrack grounds or is designated by the owner or operator of the racetrack grounds
7 to operate premises located within the racetrack grounds. Subject to par. (e), the
8 permit authorizes the retail sale of fermented malt beverages on the premises
9 covered by the permit, for consumption anywhere within the racetrack grounds. If
10 the department issues more than one permit under this subsection for the same
11 racetrack grounds, no part of the premises covered by a permit under this subsection
12 may overlap with premises covered by any other permit issued under this subsection.

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

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

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

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

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

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

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

4 125.32 (3) (c) Hotels and restaurants the principal business of which is the
5 furnishing of food and lodging to patrons, bowling centers, movie theaters, painting
6 studios, indoor golf and baseball facilities, racetrack grounds, as defined in s. 125.27
7 (5) (a), indoor horseshoe-pitching facilities, curling clubs, golf courses and golf
8 clubhouses may remain open for the conduct of their regular business but may not
9 sell fermented malt beverages during the hours specified in par. (a).

10 **SECTION 7.** 125.32 (3) (e) of the statutes is created to read:

11 125.32 (3) (e) 1. A brewer holding a permit under s. 125.29 may not sell
12 fermented malt beverages at retail under s. 125.29 (3) (e), or under s. 125.29 (3) (g)
13 for consumption on the premises, or provide taste samples under s. 125.29 (3) (i),
14 during the hours in which a Class "B" licensed premises is required under par. (a) to
15 be closed. Brewery premises may remain open for the conduct of other brewery
16 operations during these hours, but a brewer's off-site retail outlet may not remain
17 open during these hours.

18 2. A brewer holding a permit under s. 125.29 may not sell fermented malt
19 beverages at retail under s. 125.29 (3) (f), or under s. 125.29 (3) (g) for consumption
20 off the premises, between 12 midnight and 6 a.m.

21 3. A municipality may, by ordinance, impose more restrictive hours than those
22 provided in subd. 2., but may not impose different hours than those provided in subd.
23 1.

24 **SECTION 8.** 125.32 (3m) (k) of the statutes is created to read:

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1 125.32 **(3m)** (k) Premises for which a Class “B” permit is issued under s. 125.27
2 (5).

3 **SECTION 9.** 125.51 (3) (bv) of the statutes is created to read:

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

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

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

21 **SECTION 10.** 125.51 (5) (f) of the statutes is created to read:

22 125.51 **(5)** (f) *Permits for racetrack grounds.* 1. In this paragraph, “racetrack
23 grounds” has the meaning given in s. 125.27 (5) (a).

24 2. The department may issue “Class B” permits for locations within racetrack
25 grounds to any person that holds a valid certificate issued under s. 73.03 (50), that

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1 is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the
2 racetrack grounds or is designated by the owner or operator of the racetrack grounds
3 to operate premises located within the racetrack grounds. Subject to subd. 4., the
4 permit authorizes the retail sale of intoxicating liquor, by the glass and not in the
5 original package or container, on the premises covered by the permit, for
6 consumption anywhere within the racetrack grounds. If the department issues more
7 than one permit under this paragraph for the same racetrack grounds, no part of the
8 premises covered by a permit under this paragraph may overlap with premises
9 covered by any other permit issued under this paragraph.

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

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

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

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

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

23 **SECTION 11.** 125.68 (4) (c) 4. of the statutes is amended to read:

24 125.68 (4) (c) 4. Hotels and restaurants the principal business of which is the
25 furnishing of food, drinks or lodging to patrons, bowling centers, movie theaters,

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1 painting studios, racetrack grounds, as defined in s. 125.27 (5) (a), indoor
2 horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may
3 remain open for the conduct of their regular business but may not sell intoxicating
4 liquor during the closing hours under subd. 1. or, with respect to the sale of
5 intoxicating liquor authorized under s. 125.51 (3r) (a), under subd. 3.

6 **SECTION 12.** 125.68 (4) (d) of the statutes is created to read:

7 125.68 (4) (d) *Brewers*. 1. A brewer holding a permit under s. 125.29 may not
8 sell intoxicating liquor at retail under s. 125.29 (3) (h) during the hours in which a
9 “Class B” licensed premises is required under par. (c) 1. to be closed. Brewery
10 premises may remain open for the conduct of other brewery operations during these
11 hours, but a brewer’s off-site retail outlet may not remain open during these hours.

12 2. A municipality may not, by ordinance, impose different hours than those
13 provided under subd. 1.

14 **SECTION 13. Effective date.**

15 (1) This act takes effect on the first day of the 3rd month beginning after
16 publication.

17 (END)