

## NOTICE OF HEARING

### *Revenue*

NOTICE IS HEREBY GIVEN That, pursuant to ss. 125.03(1)(b) and 125.545(6)(b), Stats., and interpreting ss. 125.02(23), 125.06(11m), and 125.545, Stats., the Department of Revenue will hold a public hearing at the Events Room of the State Revenue Building, located at 2135 Rimrock Road, Madison, Wisconsin, on the 26<sup>th</sup> day of August, 2008, at 1:00 p.m. to consider the creation of rules relating to wine collectors and small winery cooperative wholesalers.

#### **Informative Summary of the Effect of the Proposed Rule Order:**

This proposed rule order will:

- specify the standards for eligibility as a wine collector and the means by which a wine collector will register with the department;
- detail the form and manner by which a wine collector will notify the department of the intent to sell wine the collector has held for at least eight years;
- describe the requirements for and the method by which applicants can be certified as small wineries and renew prior certifications; and
- outline the process for the creation of small winery cooperative wholesalers and the requirements for their operation and permit renewals.

A copy of the full text of the proposed rule order may be obtained at no cost by contacting the department. See "Agency Contact Person for Questions Concerning This Proposed Rule Order."

#### **Analysis Prepared by the Department of Revenue:**

**Statutes interpreted:** ss. 125.02 (23), 125.06 (11m) and 125.545, Stats.

**Statutory authority:** s. 125.03 (1) (b) and 125.545 (6) (b), Stats.

**Related statute or rule:** ss. 125.01, 125.02 (23), 125.06 (11m), 125.545, and 185.043 (2), Stats.

**Plain language analysis:** This proposed rule does the following:

- Provides the requirements for registration of wine collectors, the sale of wine held by the collector to other wine collectors and notice to the department in advance of any sale.
- Details the procedure for the creation and organization of small winery cooperative wholesalers. Listing the application process, and requirements for the members of the cooperative.
- Creates a provision specifying that the department may approve cooperative wholesaler applications to provide greater public convenience and service to all areas of Wisconsin.
- Details the activities authorized for small winery cooperative wholesalers.

**Summary of, and comparison with, existing or proposed federal regulation:** The Federal Alcohol Administration Act, Title 27 Chapter 8 of the United States Code, provides for regulation of those engaged in the alcohol beverage industry.

The proposed rule does not conflict with, overlap, or duplicate other rules or federal regulations.

**Comparison with rules in adjacent states:**

Illinois – No similar rule exists.

Iowa – No similar rule exists.

Michigan – No similar rule exists.

Minnesota – No similar rule exists.

**Summary of factual data and analytical methodologies:** 2007 Wisconsin Act 85 created s. 125.03 (1) (b), which established the registration of wine collectors and the requirements for the sale of wine by a wine collector, and s. 125.545 Stats., which defines small wineries and establishes the standards for the creation of a small winery cooperative wholesaler. The principal purpose of cooperative wholesalers is to sell and distribute wine manufactured by small wineries. Within the provisions of s. 125.03 (1) (b), Stats., is a requirement that the department promulgate rules to:

- Provide for the registration of wine collectors.
- Establish the standards of eligibility for registration as a wine collector.
- Specify the form and manner of notice required before the sale of wine by a wine collector.

Within the provisions of s. 125.545(6) (b), Stats., is a requirement that the department shall promulgate rules to administer and enforce the requirements relating to small winery cooperative wholesalers.

In consultation with wineries, the Wisconsin federation of cooperatives, the University of Wisconsin center for cooperatives, and the liquor wholesaler industry, the department has created this proposed rule order to satisfy the above requirements.

**Analysis and supporting documents used to determine effect on small business:** This proposed rule is created in accordance with SECTION 50 of 2007 Wisconsin Act 85 and ss. 125.03(1)(b) and 125.545(6)(b), Stats., to administer and enforce statutory requirements pertaining to wine collectors and small winery cooperative wholesalers. As the rule does not impose any significant financial or other compliance burden, the department has determined that it does not have a significant effect on small business.

**Anticipated costs incurred by private sector:** This proposed rule does not have a significant fiscal effect on the private sector.

**Effect on small business:** This proposed rule does not have a significant effect on small business.

**Place where comments are to be submitted and deadline for submission:** Interested persons are invited to appear at the hearing and may make an oral presentation. It is requested

that written comments reflecting the oral presentation be given to the department at the hearing. Written comments may also be submitted to the contact person shown below no later than September 5, 2008, and will be given the same consideration as testimony presented at the hearing.

**Initial Regulatory Flexibility Analysis:**

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

**Fiscal Estimate:**

2007 Wisconsin Act 85 established requirements for the registration of wine collectors and for the sale of wine by a wine collector. In addition, Act 85 also defined small wineries and created standards for the formation of a small winery cooperative wholesaler to distribute wine manufactured by small wineries.

As authorized by Act 85, the proposed rule, under s. 125.03 (1) (b) Stats., provides for the registration of wine collectors, establishes the standards of eligibility for the registration, and specifies the form of notice required for the sale of wine by a wine collector. In addition, under s. 125.545 Stats., the proposed rule establishes a framework to administer and enforce the requirements relating to small winery cooperative wholesalers.

While the Department of Revenue anticipates that the costs to administer the entirety of Act 85 to be \$96,800 on an annualized basis, this proposed rule, which establishes requirements only for the portions of the act described above, does not have any significant fiscal effect.

A copy of the full fiscal estimate may be obtained at no cost by contacting the department. See "Agency Contact Person for Questions Concerning This Proposed Rule Order."

**Agency Contact Person for Questions Concerning This Proposed Rule Order:**

Small Businesses:

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Others:

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Dated: \_\_\_\_\_

By: \_\_\_\_\_

Roger M. Ervin  
Secretary of Revenue

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