

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
AIU001	DOR on Tap - An Alcohol Industry Update 001

DOR on Tap

An Alcohol Industry Update

August 2019 | AIU 001

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by [sec. 227.112\(1\)](#), Wis. Stats.

Industry Leaders, Local Clerks, and Policy Stakeholders:

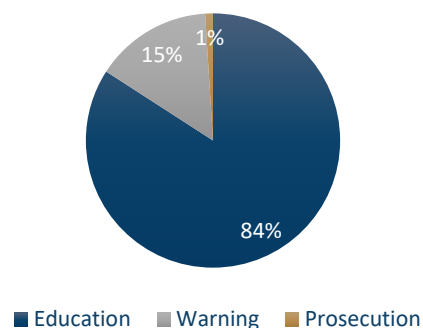
Welcome to the first of many Department of Revenue "On Tap" industry updates! I believe that excellent customer service and stakeholder communication are essential to our mission of fairly enforcing the law. Our vision with these monthly updates is to provide you with department resources, updates on enforcement actions, and some stories of the important work that our Alcohol and Tobacco Enforcement Unit and the Department take such pride in. Please use this update as a resource and a springboard for conversation with the Department of Revenue. Thank you for your investment in Wisconsin's rich history and future.

Peter Barca
Secretary | Wisconsin Department of Revenue

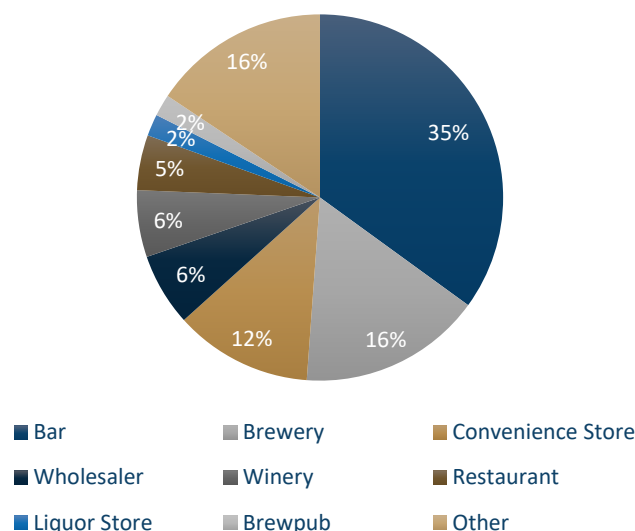
It is my pleasure to be the Special Agent in Charge of the Wisconsin Department of Revenue's Alcohol and Tobacco Enforcement Unit. I am the supervisor of nine special agents who, along with myself, are all sworn law enforcement officers. We are tasked with enforcing Wisconsin's alcohol beverage, cigarette, and tobacco products laws, along with certain video gambling laws. We are incredibly proud of the work we do and are looking forward to sharing more with you through the "On Tap" industry update. Proactive communication with the industries we serve is a critical bridge to building trust and ensuring fairness and transparency. As enforcement actions are publicized, they serve as a deterrent for others engaging in illegal activity. I will be writing a column in this newsletter about questions we're hearing, violations we're seeing, and stronger actions we are taking. I hope this update helps illuminate the work we do and allows us to build a stronger and more cooperative relationship. I also hope the information provided in these updates helps to educate readers on a variety of topics, and in turn, results in increased compliance with the laws we administer. Whether your product comes from a barrel, keg, or still – I look forward to working with you to address concerns and questions in the industry.

Cheers,
Tyler Quam
Special Agent in Charge
A&TEU | Wisconsin Department of Revenue

INVESTIGATION OUTCOMES FY19



ACTIONS BY BUSINESS TYPE FY19



Alcohol FAQs

Can an underage person possess and consume alcohol beverages on licensed premises?

Yes. Persons under age 21 may possess and consume alcohol beverages if they are with their parents, guardians or spouses of legal drinking age, but this is at the discretion of the licensee. The licensed premises may choose to prohibit consumption and possession of alcohol beverages by underage persons.

Can individuals bring liquor into Wisconsin?

No. By state law, you may not bring any liquor (intoxicating liquor or wine - including cider) into Wisconsin, unless you hold a valid liquor permit issued by DOR or you qualify for one of the following three exceptions: active duty members of the armed forces, persons traveling in a foreign country, and persons bringing alcohol beverages as part of their household goods when changing their domicile to Wisconsin.

Legislative Update

[2019 Wisconsin Act 6](#) (passed) – removing quantity limits of spirits sold by "Class B" licensees for off-premises consumption

[2019 Wisconsin Act 9](#) (passed) – Budget bill: creation of a vapor products excise tax

[2019 Assembly Bill 91](#) (proposed) – requires common carriers to report shipments of alcohol into Wisconsin

[2019 Assembly Bill 92](#) (proposed) – requires out of state shippers (beer, wine, liquor) to consent to jurisdiction in Wisconsin before shipping alcohol beverages into Wisconsin

[2019 Assembly Bill 216](#) (proposed) – would allow municipalities to designate a municipal official to issue operator's licenses

Resources & News

[Wisconsin Department of Revenue Website](#)

[Wisconsin Department of Revenue Alcohol Beverage Landing Page](#)

[Wisconsin Department of Revenue Fact Sheets](#)

[Operator's \(Bartender's\) License – Training](#)

[Federal TTB \(Alcohol and Tobacco Tax and Trade Bureau\)](#)

[Wisconsin Department of Agriculture, Trade and Consumer Protection](#)

[Wisconsin Department of Health Services](#)

[Wisconsin Department of Justice](#)

[League of Wisconsin Municipalities](#)

Who Owns This Place?

A September 2018 investigation by the DOR's Alcohol and Tobacco Enforcement Unit found that three individuals conspired to obtain an alcohol beverage license in the name of a person who was not the true operator of the tavern. The three were each charged with multiple conspiracy charges related to allowing another person to use an alcohol beverage license and cigarette/tobacco products license.

Agents received a tip that the alcohol beverage licenses were issued to one of the three for a tavern, but there was some question as to whether or not the person issued the license was the person actually operating the tavern. The operator had previously applied for an alcohol beverage license at the establishment, but their application was denied for qualification reasons.

Agents conducted interviews of the individuals involved and began to piece together the events that led to the violations. According to the criminal complaint, after the operator was denied an alcohol beverage license, the operator and the building owner approached a third person about applying for licenses for the tavern. The complaint alleges that it was understood that building owner would lease the bar to the operator, who would operate the tavern. It was alleged that the third person had no ownership or operational control in the tavern, he was merely the license holder. The complaint also alleges that there was also talk of compensating the license holder for obtaining licenses for the operator.

State law prohibits allowing another person to use an alcohol beverage license. A total of 13 conspiracy-related criminal charges were filed against the three individuals, including multiple counts of conspiracy to commit allowing another to use an alcohol beverage license and a cigarette/tobacco products license, failing to keep purchase invoices for cigarette/tobacco products, and selling alcohol beverages without an operator's license.

The individuals in this case have not been convicted of the allegations against them, and they are presumed innocent unless they are proven guilty in court.

Vodka & Water – Hold the Vodka

A November 2018 investigation by the DOR's Alcohol and Tobacco Enforcement Unit found that the owner of an adult entertainment business was in possession of refilled liquor bottles, and that the tavern was open for business without a licensed bartender present. The owner was formally charged for these violations in a criminal complaint.

During the visit to the business, agents seized numerous liquor bottles including a bottle of vodka, after the owner told agents they refill vodka bottles with water and serves it to the club's dancers when customers want to buy them drinks.

State law forbids refilling any original container which had previously been used for intoxicating liquor containing 21 percent or more of alcohol by volume. Agents later tested the contents of the vodka bottle, which was labeled by the manufacturer as containing 40% alcohol by volume or 80 proof. The results of the test were consistent with the contents being water, as the test revealed that the contents were 0% alcohol by volume.

Agents also found the establishment to be open for business and serving alcohol beverages without a licensed operator present on the premises. Additionally, agents seized numerous bottles of liquor that had not been listed on purchase invoices from liquor wholesalers. Agents were told that these bottles of liquor were brought in by employees. State law forbids licensees from possessing any alcohol beverages on their licensed premises that are not authorized by law for sale on those premises.

The owner was ultimately charged with possession of refilled liquor bottles, and two counts related to operating the business without the presence of a licensed operator.

The owner in this case has not been convicted of the allegations against them, and they are presumed innocent unless they are proven guilty in court.

White Lightning, Anyone?

An investigation at a tavern by the DOR's Alcohol and Tobacco Enforcement Unit found two, unlabeled glass jars containing a suspicious, clear liquid.

In August 2018, agents found these jars in a cooler behind the bar. After a quick smell test by the agents, their trained noses detected moonshine, also called "white lightning", "firewater", "hooch", "mountain dew", or "bathtub gin". These terms are used to describe an intoxicating liquor manufactured without holding the appropriate permit(s) to do so.

The owner of the tavern ultimately admitted that the contents of the two glass containers were in fact moonshine, and also explained that they personally enjoyed the beverage. It was further discovered that the tavern owner received the moonshine from a "local", and that they sold it to "regulars".

State law makes it a felony to manufacture or rectify intoxicating liquor without holding the appropriate permits to do so, or to sell such liquor that was illegally manufactured or rectified. Multiple criminal charges were referred to the appropriate District Attorney's Office in this case, including the previously-mentioned felony violation, possessing/selling intoxicating liquor that was not properly labeled, and purchasing intoxicating liquor from a person other than a permitted liquor wholesaler.

As of this newsletter, criminal charges have not yet been filed by the District Attorney. The individuals in this case have not been convicted of the allegations against them, and they are presumed innocent unless and until they are proven guilty in court.

Contact Us

We would like to hear from you! Please suggest content for the newsletter, ask questions, or send in complaints to the following contact information:

Phone: (715) 842-2343 | Email: DORAlcoholTobaccoEnforcement@wisconsin.gov

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Applicable Laws and Rules

This document provides statements or interpretations of the following provisions of Wisconsin Statutes in effect as of July 15, 2019: Sections 125.04(5), 125.07(4)(a)2., 125.32(2), 125.66(3), 125.68(2) and (8), 125.69(6), 139.03(5), 139.08(4), and 139.38, Wis. Stats.

Laws enacted and in effect after July 15, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to July 15, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

Certification Statement

As the Secretary of the Wisconsin Department of Revenue (DOR), I have reviewed this guidance document or proposed guidance document and I certify that it complies with secs. 227.10 and 227.11, Wis. Stats.. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

DEPARTMENT OF REVENUE

A handwritten signature in cursive script, reading "Peter W. Barca", is written over a horizontal line.

Peter Barca

Secretary of Revenue