

**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
100076	Alcohol Beverage Laws for Retailers Licensee Responsibilities - Common Questions

State of Wisconsin
Department of Revenue

Alcohol Beverage Laws for Retailers Licensee Responsibilities

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.

1. As the owner of a business with an alcohol beverage license, from whom must I buy beer, wine, and liquor?
2. What records must I keep and for how long?
3. I hold a retail alcohol beverage license. If I run out of beer, wine, or liquor (or get a better price), can I buy from another retailer?
4. Can't I buy small amounts of beer, wine, or liquor from other retailers?
5. If I sell my tavern or liquor store, can I sell my remaining beer, liquor, cigarettes, and tobacco products inventory to the new licensee?
6. Will the new licensee who gets the liquor or beer need to keep invoices showing that I bought the liquor from wholesalers?
7. I've heard I have to break empty liquor bottles. What if I recycle?
8. Can I refill empty bottles?
9. When must I close my tavern or restaurant?
10. How late can I sell packaged beer, wine, and liquor for carryout from my tavern or restaurant?
11. When must I close my liquor store, convenience store, or grocery store?
12. Do police officers have to get a search warrant to look through my licensed premises?
13. When can officers and agents inspect?
14. What will happen if I refuse to allow officers or agents to inspect?

15. What will officers or agents look for when they inspect?
 16. Can I accept Internet or phone orders and deliver alcohol beverages to customers?
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1. As the owner of a business with an alcohol beverage license, from whom must I buy beer, wine, and liquor?

You must buy beer from a wholesaler that holds a wholesale beer permit or from a permitted brewery or brewpub authorized to sell directly to retailers. See the [\[X\] Wisconsin Fermented Malt Beverage Permit Listing](#) for a list of the legal sources of beer. You must buy wine and intoxicating liquor from a wholesaler that holds an intoxicating liquor wholesale permit issued by the state. See the [\[X\] Wisconsin Liquor Permit Listing](#) for a list of the legal sources of intoxicating liquor. You may not purchase or possess alcohol (liquor, beer, wine) from another retail licensee, even if you only hold a "temporary (picnic)" license.

2. What records must I keep and for how long?

You must keep your current cigarette and alcohol beverage license, and you must keep invoices from beer, liquor, cigarette, and other tobacco products companies for two years. You must keep the invoices in order by company and by date. Alcohol beverage records may be kept on the licensed premises in electronic form only, paper copies are not required. You cannot keep them at home, at the accountant's or bookkeeper's office, or anywhere other than on the licensed premises. You must also keep invoices from beer wholesalers, brewpubs or brewers, indicating the value of any signs that they give or sell to you. If an Alcohol & Tobacco Enforcement agent or police officer finds beer, wine, or liquor (or cigarettes/tobacco products) for which you cannot show a purchase invoice, the agent or officer can and will confiscate those items, and you may be charged with a crime.

3. I hold a retail alcohol beverage license. If I run out of beer, wine, or liquor (or get a better price), can I buy from another retailer?

No, you may not under any circumstances buy (or borrow) alcohol beverages from another retailer - not from taverns, restaurants, liquor stores, grocery stores, or any other retailer. If an Alcohol & Tobacco Enforcement agent or police officer finds beer, wine, or liquor (or cigarettes/tobacco products) that you bought from a retailer, the agent or officer can and will confiscate those items, and you may be charged with a crime.


4. Can't I buy small amounts of beer, wine, or liquor (or cigarettes/tobacco products) from other retailers?

There is no exception for small amounts. Any alcohol beverages (or cigarettes/tobacco products) purchased in violation is subject to seizure.

5. If I sell my tavern or liquor store, can I sell my remaining beer, liquor, cigarettes, and tobacco products inventory to the new licensee?

You may transfer sealed bottles of intoxicating liquor, including wine, and beer to the new licensee. You may NOT transfer open bottles of intoxicating liquor. You may NOT transfer cigarettes or tobacco products.

6. Will the new licensee who gets the liquor or beer need to keep invoices showing that I bought the liquor from wholesalers?

In place of an invoice, transferred intoxicating liquor or beer must be documented using an  Alcohol Beverage Stock Transfer form (AT-900) that can be obtained from the Department of Revenue website. This report provides an inventory of the stock transferred. Make two copies. One copy should be retained by the buyer and one copy should be retained by the seller. The buyer must keep his/her copy on the licensed premises, as he/she keeps invoices, for two years.

7. I've heard I have to break empty liquor bottles. What if I recycle?

You do not need to break empty intoxicating liquor bottles, but you must scratch, deface, or mutilate the label so that it can't be used again. If you recycle, empty liquor bottles must be stored in containers marked "For Recycling Only" and must be removed from the premises within ten days. The rule about defacing labels does not apply to wine bottles (Tax 8.43(1)), ceramic commemorative bottles and other uniquely designed decanters.

8. Can I refill empty liquor bottles?

No, this is illegal. You cannot refill liquor bottles, even with the same brand of liquor, different brands of liquor or any other type of liquid.

9. When must I close my tavern or restaurant?

Class "B" (beer), "Class B" (intoxicating liquor including wine), and "Class C" (wine only) licensed premises must be closed from 2 a.m. until 6 a.m. Monday through Friday. On Saturday morning (following Friday night) and Sunday morning (following Saturday night), you may stay open until 2:30 a.m. On January 1 (following New Year's Eve), you do not have to close.

Certain businesses, like hotels and restaurants whose principal business is furnishing food and lodging to patrons, bowling centers, movie theaters, painting studios, indoor golf and baseball facilities and indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses, may stay open after these hours for their regular business but may not sell or allow consumption of beer, wine, or liquor.

10. How late can I sell packaged beer, wine, and liquor for carryout from my tavern or restaurant?

Class "B" (beer) or "Class B" (intoxicating liquor, including wine) licensees must stop selling packaged beer, wine, and liquor at midnight. However, many towns, villages, and cities have more restrictive hours. Check with your local police department or municipal clerk for local hours for sales for off-premises consumption (carry outs).

11. When must I close my liquor store, convenience store, or grocery store?

It depends on the kind of license you hold.

If you just have a Class "A" (beer) license, you must stop selling beer from midnight until 6 a.m., unless your local town, village, or city has more restrictive hours. Check with your local police department or municipal clerk. You may stay open for other business. During the hours that you do not sell beer, you do not need to have the licensee, agent, or a licensed operator on the premises.

If you have a "Class A" (intoxicating liquor including wine) or "Class A" (cider only) license, you may not sell wine or liquor (including cider) from 9 p.m. until 6 a.m. You may stay open for other business. The licensee, agent, or a licensed operator must be present during all business hours, even when you are not open for the sale of wine or liquor.

12. Do police officers have to get a search warrant to look through my licensed premises?

It depends. Agents from the Department of Revenue and the Department of Justice, as well as police officers, can inspect the licensed premises to make sure that all taxes are paid and all alcohol beverage laws are being followed. Such an inspection may cover the entire premises covered by the license and include all places where alcohol beverages, cigarettes, and tobacco products may be stored. They may also inspect all places where business records may be kept. If the law officers are inspecting for other reasons, they may need a warrant. Consult your attorney for accurate information.

13. When can officers and agents inspect?

The law says they can inspect "at all reasonable hours." This means the hours when the place is open for business and other hours if the place is open, operating, or occupied.

14. What will happen if I refuse to allow officers or agents to inspect?

Wisconsin law makes refusal to allow inspection of licensed premises, grounds for revoking or suspending your license. It is also a misdemeanor crime.

15. What will officers or agents look for when they inspect?

They will try to make sure that taxes are being paid and alcohol beverage laws are being followed. Department of Revenue Alcohol & Tobacco Enforcement agents will make sure that all licenses and permits are current and properly posted, that the premises are legally supervised, that invoices are on-premises and in order, that invoices cover stock on hand, that underage or intoxicated persons are not present, and that a variety of other requirements are being followed. At the conclusion of the inspection, they will answer questions, explain problems, and, if necessary, they may confiscate alcohol beverages, cigarettes, tobacco products, or related items that are kept in violation of the law.

16. Can I accept Internet or phone orders and deliver alcohol beverages to customers?

Sales by retailers of alcohol beverages must occur at the licensed premises, with the buyer and seller face-to-face at the time of sale. Retailer's receipt of a customer's credit card account information may not result in the customer's credit card account being charged for an

online (Internet or phone) order. The actual sale must take place when the customer visits the retailer's licensed premises.

Wineries that possess a wine direct shipper's permit from the state may make sales and deliver not more than 108 liters of wine annually directly without the customer having to be at the premises. The customer must be of legal drinking age and may not resell or use for a commercial purpose wine that is direct shipped.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of November 1, 2019: Sections 125.03, 125.04, 125.06, 125.14, 125.272, 125.315, 125.32, 125.33, 125.51, 125.66, 125.67, 125.68, 125.69, 134.65, 139.01, 139.02, 139.03, 139.04, 139.05, 139.06, 139.08, 139.09, 139.096, 139.11, 139.18, 139.22, 139.321, 139.34, 139.38, 139.39, 139.40 and 139.44, Wis. Stats., and secs. Tax 7.001, 7.01, 8.001, 8.01, 8.02, 8.21, 8.22, 8.41, 8.43, 8.81, 9.21, 9.46, 9.47, 9.68 and 9.69, Wis. Adm. Code.

Laws enacted and in effect after November 1, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to November 1, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

MS 6-40

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