

**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
AIU003	DOR on Tap - Alcohol Industry Update 003

DOR on Tap

An Alcohol Industry Update

February 2020 | AIU 003

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.

Happy New Year! During the first few months of each year, and this year is no exception, we receive numerous questions from municipal clerks about license renewals. Over the past few years, many of these questions were directed to my friend and colleague, Tom Ourada. As you may know, Tom retired from DOR last month after 35 years of service to Wisconsin.

Tom provided guidance to countless municipal clerks on just about every type of alcohol beverage question one can imagine. He was invaluable to those he assisted and to all of us at DOR. Tom was elected to the Wisconsin Assembly in 1984 where he served for 15 years. Tom began his career with DOR in 1999. Since that time, Tom's expertise, judgement, and leadership have been crucial to DOR's success. We will miss him dearly.

Until we hire Tom's replacement, we have other staff available to assist municipal clerks and others with alcohol beverage questions. I encourage all who have inquiries to first visit the [alcohol beverage landing page](#) on our website. Many answers to questions we receive are found on this page. If you cannot find answers to your questions here, a link to submit questions can be found on the landing page. Additionally, questions may also be submitted to DORAlcoholTobaccoEnforcement@wisconsin.gov.

When Tom's replacement is hired, we will send an announcement and contact information to municipal clerks and other alcohol beverage industry members. In the meantime, we stand ready to assist with any alcohol beverage questions and continue to serve you without interruption.

Cheers,

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



Resources & News

[Wisconsin Department of Revenue Website](#)

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

[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](#)

Legislative Update

[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/Senate Bill 203](#) (proposed) – allows municipalities to designate a municipal official to issue operator's licenses

[2019 Assembly Bill 362](#) (proposed) – allows for licensed retailers to fulfill remote orders of alcohol beverages to be picked up by consumers at a parking space that is part of the retailer's licensed premises

[2019 Assembly Bill 363](#) (proposed) – allows for online and telephone orders of alcohol beverages to be fulfilled and delivered by licensed retailers

[2019 Assembly Bill 385/Senate Bill 353](#) (proposed) – modifies the "Class B" quota law by providing a municipality with one additional "Class B" license for an Americans with Disabilities Act (ADA) compliant business, if the municipality has reached its quota and no "Class B" establishments in the municipality currently meet ADA standards

[2019 Assembly Bill 434/Senate Bill 395](#) (proposed) – authorizes the issuance of a retail alcohol beverage permit for motor vehicle racetrack grounds; authorizes caterers to make retail sales of alcohol beverages on racetrack grounds; imposes closing hours for retail sales by brewers

[2019 Assembly Bill 869](#) (proposed) – creates DOR issued permits for racetrack grounds, state fair park, and private event venues. Authorizes caterers to make retail sales of alcohol on racetrack grounds, closing hours extension for DNC 2020 Convention, closing hours restriction for retail sales for brewers and wineries.

Clerk's Corner: Pedaling Beer

Each issue, we answer an alcohol beverage licensing question from a municipal clerk.

We have a tavern looking to operate a pedal pub (referred to as a "commercial quadricycle" defined in [sec. 125.02\(4m\), Wis. Stats.](#)). The tavern currently holds a retail alcohol beverage license.

Q: Can the tavern sell alcohol beverages on the pedal pub?

No, the sale of alcohol beverages must occur at a licensed premise, [sec. 125.04\(1\), Wis. Stats.](#) The tavern's licensed premise does not extend to the pedal pub.

Q: Can the tavern allow consumption on the pedal pub?

Yes, unless prohibited by municipal ordinance. Only fermented malt beverages may be consumed on a pedal pub and no person may bring more than 36 ounces onto the pedal pub ([secs. 125.09\(1\), 125.26\(3\), and 346.94\(23\)\(f\), Wis. Stats.](#)). All fermented malt beverages brought onto the pedal pub must be purchased at a licensed or permitted premises.

Q: Is the route the pedal pub travels limited in distance?

No, the law does not limit the distance that the pedal pub may travel. However, no person may drive a pedal pub occupied by passengers after 10:30 p.m., or an earlier time established by ordinance ([sec. 346.94\(23\)\(d\), Wis. Stats.](#)).



100 Bottles of Illegal Wine on the Wall

An August 2019 investigation by DOR's Alcohol and Tobacco Enforcement Unit resulted in the operator of a tavern in Grant County, Wisconsin, being charged with five offenses related to selling alcohol beverages without a valid retail alcohol beverage license, manufacturing intoxicating liquor without a permit, and violating alcohol beverage labeling/sealing requirements. Larry D. Boyd, operator of Twisted Vines Winery, Pub & Eatery, was formally charged for these violations in a criminal complaint filed on September 25, 2019.

In early 2019, Boyd, who held interest in the Class B licenses issued to the tavern, asked DOR about obtaining a winery permit for the business. Boyd was advised that state law prohibited a winery from holding an interest in the "Class B" liquor license issued to the tavern. As a result, Boyd engaged another person to obtain the retail alcohol beverage licenses for the tavern. However, Boyd continued to operate the business under these licenses. State law prohibits a person from using another's retail alcohol beverage license to sell alcohol beverages.

Agents subsequently received multiple complaints indicating that Boyd was operating the tavern using the retail alcohol beverage license of another. Additionally, agents received complaints that Boyd was making wine at the tavern and selling it to customers. State law prohibits making intoxicating liquor, including wine, for a commercial purpose without holding the appropriate permit(s).

During a visit to the business in August 2019, agents uncovered evidence that Boyd was the actual operator of the tavern. Additionally, agents found over 100 bottles of wine that were made at the business, along with several pieces of equipment for making wine. Agents also uncovered evidence that the wine made at the business was being sold to customers. Additionally, several of the wine bottles failed to meet labeling and sealing requirements as provided by state law. The illegal wine and equipment were confiscated by agents during the visit.

Boyd was ultimately charged by the Grant County District Attorney's Office with two misdemeanor counts related to selling alcohol beverages without a retail alcohol beverage license, two misdemeanor counts related to labeling and sealing violations, and one felony count for manufacturing intoxicating liquor without the proper permit.

In December 2019, Boyd pleaded no contest to the two misdemeanor charges related to selling alcohol beverages without a retail alcohol beverage license. The remaining three charges were dismissed.

RBS Training Course Listing Recently Reviewed

Applicants for operators' licenses (often called "bartender's license") must have successfully completed an approved responsible beverage server (RBS) training course. Applicants are not required to complete the training course if they are renewing an existing operator's license, have completed the training course within the last two years, or have held a retail license, manager's license, or operator's license anywhere in Wisconsin within the last two years.

The purpose of an RBS training course is to educate the bartender in important areas related to serving alcohol beverages, including the state laws, the server's legal responsibilities, how to identify fake IDs, how to identify an intoxicated customer, and many other topics.

The department maintains a listing of approved RBS training courses on the DOR website at <https://www.revenue.wi.gov/Pages/Training/alcSellerServer.aspx>

Reminder for Municipal Clerks: Only accept RBS completion certificates from approved providers. Certificates from vendors not on the approved course list should not be accepted as proof of completion of an approved RBS course for the purposes of issuing an operator's license.

DOR recently completed a review of the existing courses.

If there are questions or you are interested in having an RBS training course added to the DOR website, contact us at DORAlcoholTobaccoEnforcement@wisconsin.gov.

Tips to Expedite an Excise Tax Permit Application

We strive to review and process excise tax permit applications quickly. Most are reviewed within two to three weeks. Errors and omissions are the most common reasons for delays in permit application processing.

Here are a few tips for quicker processing:

Ownership: Permits issued to a single member LLC that is disregarded as a separate entity from its member for tax purposes, must be issued to the member using the member's legal name and federal tax identification number (social security number or federal employer identification number).

Security: Information about the required security can be found in the application instructions for each type of excise tax permit. Please ensure that:

- Security is included when applicable
- Bond is an original
- Bond is witnessed and/or titled
- Acknowledgement by Principal or All-Purpose Acknowledgement page is included (California applicants)
- Name and address on application are the same as name and address on bond

Federal Basic Permit: A copy of a Federal Basic Permit must be included with many types of permit applications.

Seller's Permit Required for Wine Direct Shippers: A Seller's Permit must be obtained before a Wisconsin Wine Direct Shipper permit will be issued. Apply online at <https://tap.revenue.wi.gov/btr/>

Read every line item on the permit application and all instructions: Delays can be avoided by carefully reading each line on the application form and all instructions.

Retail Alcohol Beverage License Renewal – What Do I Need to Do?

In Wisconsin, retail alcohol beverage licenses are issued by the municipality where the business is located. These licenses expire annually on June 30. The exception is the City of Milwaukee where licenses expire one year after the date the license was issued.

Pay Off all Debts to Wholesalers: Retail licenses may not be renewed if you have unpaid debts with a beer wholesaler for more than 15 days or with a liquor wholesaler for more than 30 days.

Pay Off all Debts to Government Agencies and Municipalities: If you have unpaid taxes, assessments, or other fees, you risk denial of your request to renew your alcohol beverage license.

Submit a Renewal Application: Most municipalities distribute license renewal information each spring, prior to the license expiration date in June. If you do not receive a license renewal application from your municipality, a copy of [Form AT-115, Renewal Alcohol Beverage License Application](#) can be found at revenue.wi.gov. Complete and return the renewal application to your municipal clerk. You will also need to provide the clerk a copy of your seller's permit issued by DOR.

Contact Us

Phone: (715) 842-2343 | Email: DORAlcoholTobaccoEnforcement@wisconsin.gov | [Follow us on Twitter](#)

Applicable Laws and Rules

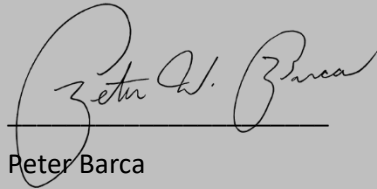
This document provides statements or interpretations of the following provisions of Wisconsin Statutes in effect as of February 12, 2020: Sections 125.02, 125.04, 125.09, 125.14, 125.17, 125.26, 125.32, 125.33, 125.66, 125.68, 125.69, 139.035, 139.05, 139.06, and 346.94, Wis. Stats.

Laws enacted and in effect after February 12, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to February 12, 2020, 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