

**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.

<b>Document Number</b>	<b>Document Title</b>
<b>AIU004</b>	<b>DOR on Tap - Alcohol Industry Update 004</b>

# DOR on Tap

## An Alcohol Industry Update

May 2020 | AIU 004

**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.**

This isn't business as usual, and it's a time of great stress and uncertainty for all in the alcohol beverage industry. Many businesses like restaurants, breweries, distilleries, wineries, and taverns are forced to shut their doors. Others are trying to weather the storm by offering carry-out services of food and beverages. In either case, I hope that we quickly recover from the economic fallout across our communities due to the COVID-19 virus.

Those of you exploring options like carry-out service have had a lot of questions about what is and is not allowed during this time. Generally, the answers are simple: if you could do it before, you can do it now; if you couldn't do it before, you can't do it now. Restrictions on the types and forms of carry-out beverages, hours of service, face-to-face sales requirements, etc. have not changed. However, DOR has put out guidance related to the many questions we have been receiving during this time. I encourage you to review this guidance at <https://www.revenue.wi.gov/DORNews/NEW-AB-COVID-19-Guidance-Document.pdf>.

Also, if you are not signed up for our alcohol beverage news email list, I encourage you to do so at <https://www.revenue.wi.gov/Pages/HTML/lists.aspx>. Just check the box for "Alcohol Beverage News", enter your email address at the bottom of the page, and click subscribe. You will then be automatically emailed with the latest alcohol beverage news.

Finally, this newsletter contains several articles addressing frequent questions we have been receiving lately. I hope that you find this information helpful.

Please take care of yourselves and your loved ones during this difficult time period. I hope we can return to some sense of "normalcy" soon.

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](#)

## Clerk's Corner: Alcohol License Renewal Season

It's that time of year again! Municipal clerks are getting ready to receive alcohol beverage license renewal applications. During this already busy time of year, the COVID-19 pandemic is making things even more challenging. We have received several questions from clerks about how they can efficiently process license renewals, while still adhering to social distancing guidelines. Below are some options that might help you during this time.

### **Alcohol beverage applications (originals and renewals) do not need to be notarized.**

Alcohol beverage forms for retail licenses that are prepared by our department, such as original applications and renewals, do not need to be notarized, pursuant to [sec. 125.04\(3\)\(bm\), Wis. Stats.](#)

### **Applications can be emailed.**

There is no Wisconsin law that prohibits an alcohol beverage application from being emailed to the municipal clerk. Electronic signatures on applications are also permissible.

### **You may accept license fees up until June 15.**

Wisconsin law provides that a city or village cannot require an applicant to pay a license fee more than 15 days before the date the license is issued. No town may require payment of the license fee more than 30 days before the date the license is issued, pursuant to [sec. 125.04\(8\), Wis. Stats.](#) For example, licensees could submit payment for their license on June 15 and have their license issued on June 30.

### **Fee amounts can be changed.**

Without legislation, our department cannot waive the fees for alcohol beverage licenses. However, municipalities have discretion to set different fee amounts, by ordinance, as long as the fees fall within the parameters set by statute.

- Class "A" license fees do not have a set minimum or maximum. The fee for this license is set by the municipality; [Sec. 125.25\(4\), Wis. Stats.](#)
- Class "B" license fees can range from \$0 to \$100; [sec. 125.26\(4\), Wis. Stats.](#)
- "Class C" license fees can range from \$0 to \$100; [sec. 125.51\(3m\)e\), Wis. Stats.](#)
- "Class A" license fees can range from \$50 to \$500; [sec. 125.51\(2\)\(d\)\(1\), Wis. Stats.](#)
- Regular "Class B" license fees can range from \$50 to \$500; [sec. 125.51\(3\)\(e\)\(1\), Wis. Stats.](#)
- Reserve "Class B" liquor licenses are a minimum of \$10,000, and have no set maximum; [sec. 125.51\(3\)\(e\)\(2\), Wis. Stats.](#)

\*\*\*Additional fee ranges apply to certain unique "Class B" licenses (e.g. Premier Economic Development District licenses and above-quota licenses).

Expiration dates of retail alcohol beverage licenses have not changed. 2019 Wisconsin Act 185 was enacted on April 15, 2019. That law provides that any state agency of local governmental unit may delay any deadline that occurs within the emergency period. The emergency period means the period covered by Executive Order #72, plus 30 days. Although state law does not provide a deadline for retail alcohol beverage licenses to be filed, some municipalities may have ordinances that establish these deadlines. If a municipality has established such a deadline that falls within the emergency period, they may choose to delay this deadline.

### **Can I request an extension of time to file my excise tax returns, pay my excise taxes, or pay my permit renewal fees during to the COVID-19 pandemic?**

Excise tax returns and payments that are due from March 12, 2020 through May 11, 2020 may be extended to May 11, 2020. Extensions will be granted on a case-by-case basis. No late filing fees, penalties, or interest will be assessed if the return is filed and the tax is paid by May 11, 2020.

There is no extension of time to pay permit renewal fees. In order to keep your permit active, the renewal fee must be paid when due.

### **How do I request the COVID-19 relief described above?**

Request an extension before the due date of the return through *My Tax Account* by completing the request form found here: [COVID-19 Relief](#). Information required includes Federal ID number, business name, your email address, the tax period(s) for which the extension is requested, and the reason for the extension request. All extension requests will be responded to within 48 hours.

## Alcohol Beverage Stock Transfers

Wisconsin alcohol beverage regulations allow retail licensees to transfer alcohol beverages to another retail licensee in Wisconsin, in certain circumstances. If you sell, close, or otherwise liquidate our business, you may transfer your entire sealed liquor, wine, and beer stock to another retail licensee in this state in one liquidating transaction. You may NOT transfer open containers of intoxicating liquor, wine, or beer. In place of an invoice, transferred alcohol beverages must be documented using Form [AT-900](#), *Alcohol Beverage Stock Transfer*, available at [www.revenue.wi.gov](http://www.revenue.wi.gov). This form reports the 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 a copy on the licensed premises for two years. The completed form does not need to be sent to the Department.

## Production of Hand Sanitizer to Address COVID-19 Pandemic

Manufacturers in Wisconsin may produce alcohol to make hand sanitizer if they obtain an industrial alcohol permit from the department using Form [AB-123](#). There is no charge for this permit and the application process will be expedited. In addition, the alcohol is not subject to intoxicating liquor excise taxes. The Alcohol Tobacco Tax & Trade Bureau (TTB) is temporarily waiving certain formula approvals for the manufacture of hand sanitizer and also expediting certain permit requirements. Additional public guidance from the TTB about the production of hand sanitizer can be found [here](#).

## Shipping Wine Directly to Wisconsin Consumers

The Wisconsin Department of Revenue issues Direct Wine Shippers' permits (sec. 125.535, Wis. Stats.) which authorize the permittee to ship wine directly to individual consumers.

To be eligible for a Direct Wine Shippers' permit, the applicant must **manufacture** and **bottle** wine on a premises covered by any one of the following:

1. A Wisconsin liquor manufacturer's or rectifier's permit
2. A Wisconsin winery permit
3. A winery license, permit, or other authorization issued to the winery by any state from which the winery will ship wine into Wisconsin
4. A federal basic winery permit

The individual to whom the wine is shipped must:

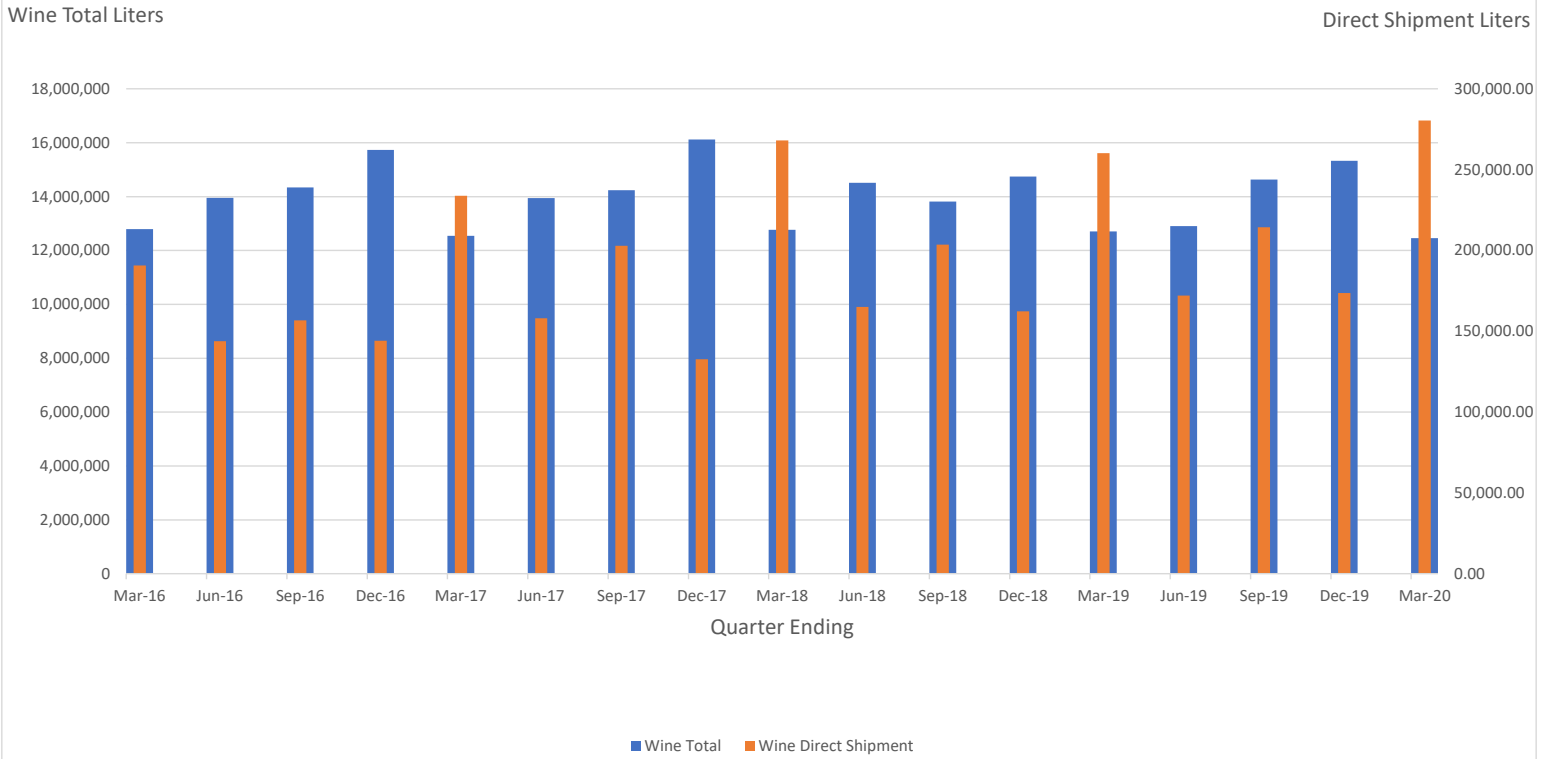
- Be of legal drinking age
- Acknowledge receipt of the shipped wine
- Not be intoxicated at the time of delivery

The statute allows manufacturing wineries within the United States to ship their wines directly to individual consumers. Direct shipping by retailers is not allowed.

In June 2019, the U.S. Supreme Court issued its decision in [Tennessee Wine and Spirits Retailer Association v. Thomas](#). The decision ruled on the constitutionality of state residency requirements in alcohol beverage regulation. The decision did not overturn Wisconsin's statute allowing for the issuance of direct wine shippers' permits to manufacturing wineries but not retailers.

Direct Wine Shippers must remit the Wisconsin sales tax on all wine shipments to Wisconsin consumers. Pursuant to sec. 139.035(3), Wis. Stats., "No wine may be shipped directly to an individual in this state by a person holding a direct wine shipper's permit under s.125.535 unless the tax imposed under s. 77.52 or 77.53 is paid on the sale of such wine."

## Wine Sales: Direct Shipments vs Total Taxable Liters



## Contact Us

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

### **Applicable Laws and Rules**

This document provides statements or interpretations of the following provisions of Wisconsin Statutes enacted as of May 1, 2020: Sections 125.04, 125.25, 125.26, 125.51, 125.52, 125.535, 125.62, 137.25, 139.035, and 323.265, Wis. Stats., and secs. Tax 7.01 and Tax 8.81, Wis. Adm. Code.

Laws enacted and in effect after May 1, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to May 1, 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