

State of Wisconsin



2021 Senate Bill 266

Date of enactment: **May 21, 2021**
Date of publication*: **May 22, 2021**

2021 WISCONSIN ACT 39

AN ACT *to renumber and amend* 125.12 (5); *to amend* 125.32 (3) (c) and 125.68 (4) (c) 4.; and *to create* 125.07 (3) (a) 17., 125.12 (5) (b), 125.26 (2v), 125.27 (5), 125.32 (3m) (k), 125.51 (3) (bv) and 125.51 (5) (f) of the statutes; **relating to:** the issuance by the Department of Revenue of retail alcohol beverage permits for motor vehicle racetrack grounds and authorizing caterers to make retail sales of alcohol beverages on racetrack grounds.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 125.07 (3) (a) 17. of the statutes is created to read:

125.07 (3) (a) 17. Premises for which a Class "B" permit is issued under s. 125.27 (5) or a "Class B" permit is issued under s. 125.51 (5) (f).

SECTION 2. 125.12 (5) of the statutes is renumbered 125.12 (5) (a) and amended to read:

125.12 (5) (a) The department may, after notice and an opportunity for hearing, revoke, suspend, or refuse to renew any retail permit issued by it for the causes provided in sub. (4) and any other permit issued by it under this chapter for any violation of this chapter or ch. 139, except that, for a violation of sub. (4) (ag) 6. with respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or 139.035, the department shall revoke the license or permit.

(c) A revocation, suspension, or refusal to renew a permit under par. (a) or (b) is a contested case under ch. 227.

SECTION 3. 125.12 (5) (b) of the statutes is created to read:

125.12 (5) (b) The department may, after notice and an opportunity for hearing, revoke any permit issued

under s. 125.27 (5) or 125.51 (5) (f) to a person designated by the owner or operator of racetrack grounds as provided in s. 125.27 (5) (b) or 125.51 (5) (f) 2. if the person's designation has terminated or the owner or operator of the racetrack grounds has otherwise rescinded the person's designation.

SECTION 4. 125.26 (2v) of the statutes is created to read:

125.26 (2v) (a) Subject to pars. (b) and (c), and notwithstanding ss. 125.04 (3) (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization specified in sub. (1), a Class "B" license issued under this section to a caterer also authorizes the caterer to provide fermented malt beverages, including their retail sale, on racetrack grounds, as defined in s. 125.27 (5) (a). Subject to pars. (b) and (c), and notwithstanding sub. (1) and s. 125.32 (6) (a), a caterer may provide fermented malt beverages under this paragraph at any location on racetrack grounds even though the racetrack grounds are not part of the caterer's licensed premises, as described under sub. (3) in the caterer's Class "B" license, and even if the racetrack grounds are not located within the municipality that issued the caterer's Class "B" license. A caterer that provides fermented malt beverages under this paragraph is subject to s. 125.32 (2) and (3) as if the fermented malt

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

beverages were provided on the caterer's Class "B" licensed premises.

(b) A caterer may not provide fermented malt beverages under par. (a) at any designated camping area on racetrack grounds while the area is in use for camping.

(c) A caterer may not provide fermented malt beverages under par. (a) on any premises covered by a permit issued under s. 125.27 (5) or 125.51 (5) (f).

SECTION 5. 125.27 (5) of the statutes is created to read:

125.27 (5) PERMITS FOR RACETRACK GROUNDS. (a) In this subsection, "racetrack grounds" means real property consisting of at least 300 acres containing a motor vehicle racetrack at least 4 miles in length capable of hosting professional racing events, and includes any building or other structure on this property associated with the racetrack or with services provided in connection with events held at the racetrack.

(b) The department may issue Class "B" permits for locations within racetrack grounds to any person that holds a valid certificate issued under s. 73.03 (50), that is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the racetrack grounds or is designated by the owner or operator of the racetrack grounds to operate premises located within the racetrack grounds. Subject to par. (e), the permit authorizes the retail sale of fermented malt beverages on the premises covered by the permit, for consumption anywhere within the racetrack grounds. If the department issues more than one permit under this subsection for the same racetrack grounds, no part of the premises covered by a permit under this subsection may overlap with premises covered by any other permit issued under this subsection.

(c) Persons holding a permit under par. (b) may sell beverages containing less than 0.5 percent of alcohol by volume without obtaining a license under s. 66.0433.

(d) Subject to ss. 125.07 (3) (a) 17. and 125.32 (3) (c) and (3m) (k), all provisions of this chapter applying to Class "B" licenses apply to Class "B" permits issued under this subsection, except as follows:

1. A permit issued under this subsection does not authorize retail sales of fermented malt beverages for consumption off the racetrack grounds.

2. A permit issued under this subsection authorizes the retail sale of fermented malt beverages for possession and consumption off the premises where sold if the possession and consumption occurs within the racetrack grounds.

(e) A permit issued under this subsection does not authorize retail sales of fermented malt beverages at any designated camping area on racetrack grounds while the area is in use for camping.

(f) The department shall establish a fee for a permit issued under this subsection in the amount of 50 percent of the fee for a permit issued under sub. (1).

SECTION 6. 125.32 (3) (c) of the statutes is amended to read:

125.32 (3) (c) Hotels and restaurants the principal business of which is the furnishing of food and lodging to patrons, bowling centers, movie theaters, painting studios, indoor golf and baseball facilities, racetrack grounds, as defined in s. 125.27 (5) (a), indoor horse-shoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell fermented malt beverages during the hours specified in par. (a).

SECTION 7. 125.32 (3m) (k) of the statutes is created to read:

125.32 (3m) (k) Premises for which a Class "B" permit is issued under s. 125.27 (5).

SECTION 8. 125.51 (3) (bv) of the statutes is created to read:

125.51 (3) (bv) 1. Subject to subds. 2. and 3., and notwithstanding ss. 125.04 (3) (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization specified in par. (a) or (b) and in sub. (1) (a), a "Class B" license issued under sub. (1) to a caterer also authorizes the caterer to provide intoxicating liquor, including its retail sale, on racetrack grounds, as defined in s. 125.27 (5) (a). Subject to subds. 2. and 3., and notwithstanding pars. (a) and (b) and sub. (1) (a) and s. 125.32 (6) (a), a caterer may provide intoxicating liquor under this subdivision at any location on racetrack grounds even though the racetrack grounds are not part of the caterer's licensed premises, as described under par. (d) in the caterer's "Class B" license, and even if the racetrack grounds are not located within the municipality that issued the caterer's "Class B" license. A caterer that provides intoxicating liquor under this subdivision is subject to s. 125.68 (2) and (4) as if the intoxicating liquor were provided on the caterer's "Class B" licensed premises.

2. A caterer may not provide intoxicating liquor under subd. 1. at any designated camping area on racetrack grounds while the area is in use for camping.

3. A caterer may not provide intoxicating liquor under subd. 1. on any premises covered by a permit issued under sub. (5) (f) or s. 125.27 (5).

SECTION 9. 125.51 (5) (f) of the statutes is created to read:

125.51 (5) (f) *Permits for racetrack grounds.* 1. In this paragraph, "racetrack grounds" has the meaning given in s. 125.27 (5) (a).

2. The department may issue "Class B" permits for locations within racetrack grounds to any person that holds a valid certificate issued under s. 73.03 (50), that is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the racetrack grounds or is designated by the owner or operator of the racetrack grounds to operate premises located within the racetrack grounds. Subject to subd. 4., the permit authorizes the retail sale of intoxi-

cating liquor, by the glass and not in the original package or container, on the premises covered by the permit, for consumption anywhere within the racetrack grounds. If the department issues more than one permit under this paragraph for the same racetrack grounds, no part of the premises covered by a permit under this paragraph may overlap with premises covered by any other permit issued under this paragraph.

3. Subject to ss. 125.07 (3) (a) 17. and 125.68 (4) (c) 4., all provisions of this chapter applying to "Class B" licenses apply to "Class B" permits issued under this paragraph, except as follows:

a. A permit issued under this paragraph does not authorize retail sales of intoxicating liquor for consumption off the racetrack grounds.

b. A permit issued under this paragraph authorizes the retail sale of intoxicating liquor for possession and consumption off the premises where sold if the possession and consumption occurs within the racetrack grounds.

4. A permit issued under this paragraph does not

authorize retail sales of intoxicating liquor at any designated camping area on racetrack grounds while the area is in use for camping.

5. The department shall establish a fee for a permit issued under this paragraph in the amount of 50 percent of the fee for a permit issued under par. (a).

SECTION 10. 125.68 (4) (c) 4. of the statutes is amended to read:

125.68 (4) (c) 4. Hotels and restaurants the principal business of which is the furnishing of food, drinks or lodging to patrons, bowling centers, movie theaters, painting studios, racetrack grounds, as defined in s. 125.27 (5) (a), indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell intoxicating liquor during the closing hours under subd. 1. or, with respect to the sale of intoxicating liquor authorized under s. 125.51 (3r) (a), under subd. 3.

SECTION 11. Effective date.

(1) This act takes effect on the 30th day after the day of publication.