



2021 ASSEMBLY BILL 364

May 27, 2021 - Introduced by Representatives KNODL, BROOKS, WICHGERS, BRANDTJEN, TAUCHEN and SORTWELL, cosponsored by Senator NASS. Referred to Committee on State Affairs.

1 **AN ACT** *to repeal* 125.33 (7) (a) 1., 125.33 (7) (b), 125.69 (4) (a) 1., 125.69 (4) (b)
2 and 125.69 (4) (e); *to renumber* 125.33 (7) (a) 2. and 125.69 (4) (a) 2.; *to*
3 *renumber and amend* 125.33 (9); *to amend* 125.69 (6) (b) and 125.69 (6) (c);
4 *to repeal and recreate* 125.33 (7) (title), 125.33 (7) (a) (title), 125.69 (4) (title)
5 and 125.69 (4) (a) (title); and *to create* 125.33 (9) (c) of the statutes; **relating**
6 **to:** the penalty for a retailer's purchasing or possessing of alcohol beverages
7 from a source other than a wholesaler and credit transactions between retailers
8 and wholesalers.

Analysis by the Legislative Reference Bureau

This bill modifies the applicable penalty under certain circumstances when an alcohol beverage retailer purchases alcohol beverages from a source other than a wholesaler in violation of current law. The bill also eliminates restrictions on the maximum period of credit that a wholesaler may extend to a retailer in connection with the purchase of alcohol beverages.

Retailer purchases of alcohol beverages from non-wholesaler

Under current law, alcohol beverages are generally distributed to consumers under a three-tier distribution system: the producer sells to a wholesaler; the wholesaler sells to a retailer; and the retailer sells to a consumer. With specific

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exceptions, no person may sell outside the three-tier system and no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. A Class “B” license authorizes the retail sale of fermented malt beverages (beer) for consumption on or off the premises. A “Class B” license authorizes the retail sale of intoxicating liquor, which includes wine and distilled spirits, for consumption on the licensed premises and, subject to restrictions, off the licensed premises. Class “B” and “Class B” licenses are generally issued together for establishments such as restaurants, bars, and taverns. Class “A” and “Class A” licenses authorize the retail sale of, respectively, beer and intoxicating liquor in original packages for consumption off the licensed premises. Class “A” and “Class A” licenses are often issued together for establishments such as grocery stores, liquor stores, and convenience stores. With exceptions for certain sales of beer by brewers and brewpubs, a retail licensee may not purchase alcohol beverages from, or possess alcohol beverages purchased from, any person other than a wholesaler. If a retail licensee purchases or possesses beer in violation of this prohibition, the penalty that may be imposed is a fine of not more than \$10,000 or imprisonment for not more than nine months or both. If a retail licensee purchases or possesses intoxicating liquor in violation of this prohibition, the penalty that may be imposed (or must be imposed if item 3., below, applies) is one of the following:

1. If a “Class B” licensee purchases intoxicating liquor from a “Class A” licensee for resale or possesses intoxicating liquor purchased from a “Class A” licensee for resale, a fine of not more than \$100.
2. If 1. does not apply and the total volume of intoxicating liquor purchased or possessed in one month is 12 liters or less, a forfeiture of not more than \$100.
3. If neither 1. nor 2. apply, a fine of not less than \$1,000 nor more than \$10,000.

This bill makes changes to some of these penalties. With respect to the penalty under item 2., above, the bill increases the threshold amount from 12 liters of intoxicating liquor to 48 liters of intoxicating liquor. With respect to the penalty under item 1., above, the bill changes the penalty from a fine to a forfeiture, making the violation a civil offense rather than a crime.

The bill also creates a tiered penalty structure for violations with respect to beer that is similar to the tiered structure for intoxicating liquor violations. Under the bill, if a retail licensee purchases or possesses beer in violation of the prohibition, the penalty that may be imposed is one of the following:

1. If a Class “B” licensee purchases beer from a Class “A” licensee for resale or possesses beer purchased from a Class “A” licensee for resale, a fine of not more than \$100.
2. If 1. does not apply and the total volume of beer purchased or possessed in one month is 4,320 fluid ounces (15 cases) or less, a forfeiture of not more than \$100.
3. If neither 1. nor 2. apply, a fine of not more than \$10,000 or imprisonment for not more than nine months or both.

Credit restrictions

Under current law, a retailer of beer may not purchase or acquire beer from a wholesaler except upon payment of cash or extension of credit for not more than 15 days. A retailer of intoxicating liquor may not purchase or acquire intoxicating

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liquor from a wholesaler except upon payment of cash or extension of credit for not more than 30 days. A retailer that remains indebted to a wholesaler beyond the applicable period is precluded from purchasing more alcohol beverages from any wholesaler and may not be issued another retail license.

This bill eliminates these 15-day and 30-day maximum permissible credit periods.

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

1 **SECTION 1.** 125.33 (7) (title) of the statutes is repealed and recreated to read:

2 125.33 (7) (title) BONA FIDE SALE.

3 **SECTION 2.** 125.33 (7) (a) (title) of the statutes is repealed and recreated to read:

4 125.33 (7) (a) (title) *Consignment prohibited.*

5 **SECTION 3.** 125.33 (7) (a) 1. of the statutes is repealed.

6 **SECTION 4.** 125.33 (7) (a) 2. of the statutes is renumbered 125.33 (7) (a).

7 **SECTION 5.** 125.33 (7) (b) of the statutes is repealed.

8 **SECTION 6.** 125.33 (9) of the statutes is renumbered 125.33 (9) (a) and amended
9 to read:

10 125.33 (9) (a) Except as provided in ss. 125.29 (3m) (b) and (c), 125.295 (1) (g),
11 and 125.30 (4), no campus or retail licensee or permittee may purchase or possess
12 fermented malt beverages purchased from any person other than a wholesaler
13 holding a permit under this chapter for the sale of fermented malt beverages.

14 (b) Any person who violates this subsection par. (a), if the total volume of
15 fermented malt beverages purchased or possessed by that person in one month is
16 4,320 fluid ounces or less, may be required to forfeit not more than \$100. A person
17 who purchases or possesses more than 4,320 fluid ounces of fermented malt
18 beverages in one month in violation of par. (a) may be fined not more than \$10,000
19 or imprisoned for not more than 9 months or both.

ASSEMBLY BILL 364**SECTION 7**

1 **SECTION 7.** 125.33 (9) (c) of the statutes is created to read:

2 125.33 (9) (c) Notwithstanding par. (b), a Class “B” licensee who purchases
3 fermented malt beverages from a Class “A” licensee for resale or who possesses
4 fermented malt beverages purchased from a Class “A” licensee for resale may be
5 required to forfeit not more than \$100.

6 **SECTION 8.** 125.69 (4) (title) of the statutes is repealed and recreated to read:

7 125.69 (4) (title) BONA FIDE SALE.

8 **SECTION 9.** 125.69 (4) (a) (title) of the statutes is repealed and recreated to read:

9 125.69 (4) (a) (title) *Consignment prohibited.*

10 **SECTION 10.** 125.69 (4) (a) 1. of the statutes is repealed.

11 **SECTION 11.** 125.69 (4) (a) 2. of the statutes is renumbered 125.69 (4) (a).

12 **SECTION 12.** 125.69 (4) (b) of the statutes is repealed.

13 **SECTION 13.** 125.69 (4) (e) of the statutes is repealed.

14 **SECTION 14.** 125.69 (6) (b) of the statutes is amended to read:

15 125.69 (6) (b) Any person who violates par. (a), if the total volume of
16 intoxicating liquor purchased or possessed by that person in one month is ~~12~~ 48 liters
17 or less, may be required to forfeit not more than \$100. A person who purchases or
18 possesses more than ~~12~~ 48 liters of intoxicating liquor in one month in violation of
19 par. (a) shall be fined not less than \$1,000 nor more than \$10,000.

20 **SECTION 15.** 125.69 (6) (c) of the statutes is amended to read:

21 125.69 (6) (c) Notwithstanding par. (b), a “Class B” licensee who purchases
22 intoxicating liquor from a “Class A” licensee for resale or who possesses intoxicating
23 liquor purchased from a “Class A” licensee for resale may be ~~fined~~ required to forfeit
24 not more than \$100.

25

(END)