



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5866/P3
ARG:cjs&wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 125.29 (3) (h); and *to create* 125.32 (3m) (k) and 125.53 (3) of
2 the statutes; **relating to:** retail sales of intoxicating liquor by brewers and
3 retail beer licenses held by wineries.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Alcohol Beverages Enforcement.

Background

A winery is expressly authorized to have either a "Class A" intoxicating liquor (distilled spirits and wine, hereinafter, "liquor") license or a "Class B" liquor license. A "Class A" liquor license authorizes the retail sale of liquor to a consumer for consumption off the premises where sold and in original packages and containers. A "Class B" liquor license issued to a winery authorizes the retail sale of wine to a consumer by the glass or in opened containers on the premise where sold (on-premise consumption). It also authorizes the retail sale of wine to a consumer in the original package or container to be consumed off the premises where sold (off-premise consumption). A "Class B" liquor license issued to a winery does not authorize the sale of fermented malt beverages or any liquor other than wine.

A brewer is expressly authorized under a brewer's permit to retail sell fermented malt beverages ("beer") that it manufactures, as well as beer manufactured by other brewers holding a brewer's permit, for on-premise consumption at the brewery or at an off-site retail outlet established by the brewer. A brewer is also expressly authorized under the brewer's permit to retail sell its own beer and beer manufactured by other brewers in original unopened containers for off-premise consumption. The brewer's permit also expressly authorizes a brewer to retail sell liquor for on-premise consumption by individuals at the brewery premises or an off-site retail outlet established by the brewer, if the brewer held, on June 1, 2011, a license or permit authorizing the retail sale of liquor and if the liquor has been purchased by the brewer from an authorized wholesaler.

A February 2017 informal opinion from the Attorney General concluded that a winery may hold a Class "B" beer license authorizing the retail sale of beer for on-premise consumption. The informal opinion also concluded that a brewer can hold a "Class C" license authorizing the retail sale of wine for on-premise consumption.

Bill

This bill expressly authorizes a winery to hold a Class "B" beer license authorizing the retail sale of beer if the winery also holds a "Class B" liquor license.

This bill also allows any brewer holding a brewer's permit, regardless of whether it held a license or permit to sell liquor on June 1, 2011, to retail sell liquor at the brewery for on-premise consumption or retail sell liquor at an off-site retail outlet for on-premise consumption as long as the liquor is purchased from an authorized wholesaler.

1 **SECTION 1.** 125.29 (3) (h) of the statutes is amended to read:

2 125.29 (3) (h) Notwithstanding ss. 125.04 (9) and 125.09 (1), the retail sale of
3 intoxicating liquor, for on-premise consumption by individuals at the brewery
4 premises or an off-site retail outlet established by the brewer, ~~if the brewer held, on~~
5 ~~June 1, 2011, a license or permit authorizing the retail sale of intoxicating liquor and~~
6 if the intoxicating liquor has been purchased by the brewer from a wholesaler holding
7 a permit under s. 125.54.

8 **SECTION 2.** 125.32 (3m) (k) of the statutes is created to read:

9 125.32 (3m) (k) A winery.

10 **SECTION 3.** 125.53 (3) of the statutes is created to read:

11 125.53 (3) A winery holding a permit under this section may hold a Class "B"
12 license authorizing the retail sale of fermented malt beverages if the winery holds
13 a "Class B" license issued for the same premises.

****NOTE: Sections 1 and 3 of this bill are identical to provisions in sections 11 and 32 of 2017 AB-492. In general, if a brewer can sell intoxicating liquor at retail under its brewer's permit, it would not need to hold a "Class B" or "Class C" license, as holding such

a license would provide redundant authority. However, there are two significant distinctions between authority under the brewer's permit and authority under a retail license. First, a "Class B" retail license is subject to the quota system, so a brewer located in a municipality that has reached its quota would not be able to secure a "Class B" license to sell intoxicating liquor at retail but would be able to sell intoxicating liquor at retail if authority were conferred under the brewer's permit. Second, a "Class B" license issued to a brewer allows the brewer to sell intoxicating liquor for on-premises or off-premises consumption (subject to limitations), while the intoxicating liquor retail sales authority conferred by the brewer's permit under s. 125.29 (3) (h) is limited to retail sales for on-premises consumption.

****NOTE: I do not believe that created s. 125.32 (3m) (k) of this draft is necessary, but I have included the treatment in response to the informal Attorney General opinion. Each Class "B" license must particularly describe the premises. The described premises for a winery would be the tasting room or another location that is separate from the area where the wine is actually produced. In other words, the business of wine production would not be occurring on the licensed premises. Rather, the licensed premises would be an area primarily used for tastings and retail sales of wine under a "Class B" license and, if a Class "B" license is issued, sale of beer as well. Accordingly, the "other business" exception seems unnecessary to me.

1

(END)