



WISCONSIN LEGISLATIVE COUNCIL

MEETING MINUTES

STUDY COMMITTEE ON ALCOHOL BEVERAGES ENFORCEMENT

Room 411 South, State Capitol
Madison, WI

November 28, 2018
10:00 - 11:32 a.m.

Call to Order and Roll Call

Chair Swearingen called the meeting to order. A quorum was determined to be present.

COMMITTEE MEMBERS PRESENT: Rep. Rob Swearingen, Chair; Sen. Daniel Feyen, Vice Chair; Rep. JoCasta Zamarripa; Sen. LaTonya Johnson; and Public Members Sarah Botham, Angie Bowe, William Glass, Evan Hughes, Roger Johnson, Paul Lucas, John Macy, Pete Madland, and Mike Wittenwyler.

COMMITTEE MEMBERS EXCUSED: Public Members Joe Bartolotta and Andrew Bowman.

COUNCIL STAFF PRESENT: Mike Queensland and Melissa Schmidt, Senior Staff Attorneys.

Approval of the Minutes of the September 26, 2018 Meeting of the Study Committee

Mr. Macy moved, seconded by Mr. Hughes, that the minutes of the committee's September 26, 2018 meeting be approved. The motion was approved by unanimous consent.

<p>ATTENTION: This was the final meeting of the Study Committee on Alcohol Beverages Enforcement. Committee members are requested to send any corrections regarding these minutes to the Legislative Council staff. After the incorporation of any corrections, these minutes will be considered approved by the committee.</p>
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Description of Materials Distributed and Discussion of Committee Assignment

Chair Swearingen welcomed the committee members and provided announcements regarding the four issues that the committee has been discussing in response to the scope of the committee.

Informal AG Opinion Regarding the Issuance of Class "B" Beer Licenses to Wineries and "Class C" Wine-Only Licenses to Breweries

Chair Swearingen noted that due to a lack of consensus, the study committee would not be pursuing legislation relating to the informal Attorney General Opinion regarding the issuance of Class "B" beer licenses to wineries and "Class C" wine-only licenses to breweries.

Venues That Allow Alcohol Beverages to be Consumed on Their Premises Without Holding the Applicable Alcohol Beverages License

Chair Swearingen indicated that the study committee would not be pursuing legislation regarding wedding barns, due to a recent informal opinion from the Attorney General, dated November 16, 2018 that was distributed to committee members. In addition, he noted that he believes event venues like wedding barns will continue to have many opportunities to obtain appropriate licensure to serve alcohol at their events. He also extended his appreciation to Public Member Johnson for taking considerable time to work with Legislative Council staff to develop his concept for a "consumption license" for wedding barns.

Potential for Future Meetings Regarding Structural Changes to Alcohol Enforcement

Chair Swearingen provided an update on the prospect of future study committee meetings. He indicated that it was originally his intent for this meeting to be the last meeting. However, he stated that it had recently come to his attention that Governor-elect Tony Evers' administration may be open to making some structural changes to how alcohol beverages enforcement is managed by the state. He told committee members that he is giving the new administration and representatives from the alcohol beverages industry the opportunity to develop principles regarding the state's alcohol beverage enforcement efforts. In the event that this occurs in the next few weeks, Chair Swearingen indicated that he would be interested in reconvening the study committee early next year to further develop a proposal with the intent of recommending legislation that reflects these principles to the Joint Legislative Council.

Collecting Tax on Internet Wine Sales and Preventing the Illegal Importation of Alcohol

Chair Swearingen announced that his goal for this meeting was to have the committee focus on bill drafts relating to the enforcement of laws in the context of internet alcohol sales. He described that LRB-0716/1 and LRB-0716/2 both relate to requiring reports by common carriers. LRB-0716/1 was prepared at the request of the Department of Revenue (DOR) and LRB-0716/2 reflects changes that he requested. He then stated that he has no plans for the study committee to consider LRB-0717/1, which generally relates to direct wine shipments to consumers from wine fulfillment centers and was prepared at DOR's request. He stated that this bill draft assumes that shipments from out-of-state wine fulfillment houses are legal under current law, which is not a universally accepted interpretation. Lastly, Chair Swearingen

indicated his intent for the committee to consider LRB-0718/1, relating to requiring out-of-state alcohol beverage shippers and direct wine shippers to submit to jurisdiction in this state and providing a person to accept service of process in this state, also prepared at DOR's request.

Chair Swearingen then asked Legislative Council staff to reacquaint study committee members with the Joint Legislative Council study committee process. Michael Queensland, Legislative Council, stated that the study committee's role is to recommend legislation to the Joint Legislative Council for introduction. The Joint Legislative Council then votes on whether to introduce proposals recommended by study committees into the normal legislative process as bills authored by the "Joint Legislative Council."

LRB-0716/2, relating to requiring reports by common carriers shipping alcohol beverages into this state

Mr. Queensland described LRB-0716/2 and the major differences between it and LRB-0716/1. He also relayed concerns to the study committee raised by UPS (a common carrier) who contacted Chair Swearingen. UPS's concerns with LRB-0716/2 included the following:

- LRB-0716/2 requires common carriers to report to DOR certain information regarding shipments of alcohol beverages that UPS does not currently collect. Included in the information that UPS does not collect is: (1) the name and address of the person that manufactured or rectified the alcohol beverages being shipped; and (2) the type and quantity of the alcohol beverages being shipped.
- LRB-0716/2 places a criminal penalty on a common carrier who fails to comply with the reporting requirement created by the bill draft. Furthermore, LRB-0716/2 allows DOR to "suspend all shipments by the common carrier into this state" if the common carrier fails to comply with the newly created reporting requirement.

In addition to raising concerns with LRB-0716/2, UPS offered that it would be able to comply with other reporting requirements, including: (1) the weight of each parcel containing alcohol beverages shipped by a common carrier; and (2) the tracking number, waybill number, or a different number to identify each individual parcel containing alcohol beverages that is shipped by the common carrier.

The committee discussed LRB-0716/2 and the comments offered by UPS. Mr. Wittenwyler requested that the committee maintain the requirements that common carriers report information regarding the manufacturer of alcohol beverages being shipped and the type and quantity of the alcohol beverages being shipped. Chair Swearingen requested that the penalty provision be changed to impose a \$2,000 forfeiture for violations of the bill draft's reporting requirement. He also requested that the bill draft provide that DOR must maintain the reports submitted by common carriers for at least three years, consistent with the bill draft's requirement that common carriers must maintain the reports and all records related to the reports for at least three years.

Mr. Johnson moved, seconded by Mr. Lucas, that LRB-0716/2 be amended to: (1) add a requirement after page 3, line 9, that common carriers must report the tracking number, waybill

number, or a similar identification number of each shipment of alcohol beverages; (2) replace the penalty provision on page 3, lines 15-17, with a new penalty of a forfeiture not to exceed \$2,000 applicable to a common carrier who fails to submit a report required by the bill draft; and (3) require DOR to maintain common carrier reports it receives, and all records related to the reports, for at least 3 years. The motion passed by a vote of Ayes, 12 (Reps. Swearingen and Zamarripa; Sens. Feyen and Johnson; and Public Members Botham, Bowe, Hughes, Johnson, Lucas, Macy, Madland, and Wittenwyler); Noes, 1 (Public Member Glass); and Absent, 2 (Public Members Bartolotta and Bowman).

Mr. Johnson moved, seconded by Mr. Madland, that the committee recommend introduction of LRB-0716/2, as amended. The motion passed by a vote of Ayes, 12 (Reps. Swearingen and Zamarripa; Sens. Feyen and Johnson; and Public Members Botham, Bowe, Hughes, Johnson, Lucas, Macy, Madland, and Wittenwyler); Noes, 1 (Public Member Glass); and Absent, 2 (Public Members Bartolotta and Bowman).

LRB-0718/1, relating to enforcement of alcohol beverage laws against out-of-state alcohol beverage shippers and direct wine shippers

Melissa Schmidt, Legislative Council, described, and the committee discussed, LRB-0718/1.

Mr. Johnson moved, seconded by Senator Johnson, that the committee recommend introduction of LRB-0718/1. The motion passed by a vote of Ayes, 13 (Reps. Swearingen and Zamarripa; Sens. Feyen and Johnson; and Public Members Botham, Bowe, Glass, Hughes, Johnson, Lucas, Macy, Madland, and Wittenwyler); Noes, 0; and Absent, 2 (Public Members Bartolotta and Bowman).

Other Business

There was no other business brought before the committee.

Plans for Future Meetings

Chair Swearingen thanked committee members for their service. He also said that he would keep committee members apprised of any more possible meetings to take place in 2019.

Adjournment

The committee adjourned at 11:32 a.m.

[The preceding is a summary of the November 28, 2018 meeting of the Study Committee on Alcohol Beverages Enforcement, which was recorded by WisconsinEye. The video recording is available in the WisconsinEye archives at <http://www.wiseye.org/Video-Archive>.]

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