State of Wisconsin

Department of Revenue

Wisconsin Alcohol Beverage and Tobacco Laws for Retailers

Publication 302 (12/15)

Table of Contents

Page

I. INTRODUCTION 3
II. DEFINITIONS 3
III. ALCOHOL BEVERAGE LAW 5
A. Closing Hours 5
B. Daylight Saving Time 5
C. Training Requirements For Completion Of The Responsible Beverage Server Training Course (Required As A Condition Of Licensing) 5
IV. LICENSING 6
V. SALE OF ALCOHOL BEVERAGES 6
VI. SELLER'S PERMIT 6
VII. FEDERAL TAX STAMP 6
VIII. LICENSES FRAMED AND POSTED 7
IX. REQUIRED ONSITE SUPERVISION OF LICENSED PREMISES 7
X. SALE TO INTOXICATED PERSONS 7
XI. REFILLED LIQUOR BOTTLES 7
XII. IDENTIFICATION REGISTER 7
XIII. PRESERVATION OF RECORDS 8
XIV. TRANSFER OF ALCOHOL BEVERAGE STOCK 8
XV. "WINE OR BEER WALKS" 8
XVI. CORKAGE FEES 9
XVII. CREDIT LAWS 9
XVIII. INSPECTION OF LICENSED PREMISES 9
XIX. UNDERAGE PERSONS ENTERING LICENSED PREMISES 10
XX. SALES AND SERVICE OF ALCOHOL BEVERAGES TO UNDERAGE PERSONS 11
XXI. POSSESSION OF ALCOHOL BEVERAGES BY UNDERAGE PERSONS 11
XXII. NONALCOHOL "BEER" 11
XXIII. EMPLOYMENT OF MINORS 11
XXIV. OTHER LAWS RELATING TO UNDERAGE PERSONS 12
XXV. PENALTIES FOR VIOLATIONS 12
XXVI. FALSE ID CARDS - PENALTIES 13
XXVII. ID/DL CHECKING GUIDE 13
A. False ID/DL Checking Guide 13
B. Things to look for: 13
XXVIII. CIVIL LIABILITY FOR RETAINING ID 14
XXIX. CIGARETTE/TOBACCO PRODUCTS LAWS 14
XXX. VIDEO GAMBLING 15

IMPORTANT CHANGES

2015 Act 55 (effective July 14, 2015) provides that municipalities shall issue a "Class A" (cider only) liquor license if the license applicant also holds a Class "A" (beer) license for the same premises, and limits its sale of intoxicating liquor to cider only. The municipality may not charge an initial issuance fee for a "Class A" (cider only) license. See the definition of cider on page 3.

2015 Act 62 (effective October 23, 2015) authorizes a municipality to issue temporary Class "B" (beer) licenses and temporary "Class B" (wine only) licenses to a qualified organization, including a chamber of commerce or similar civic or trade organization organized under chapter 181 of the Wisconsin statutes to promote economic growth and opportunity within a local geographical area. New guidance regarding wine or beer walks is provided in section XV on page 8.

I. INTRODUCTION

This publication provides information about state alcohol beverage and tobacco laws that affect you as a retailer.

Most of the laws outlined in this publication are found in Chapter 125 and sections 134.65 and 134.66 of the Wisconsin Statutes.

Municipalities also may enact additional regulations affecting your business. You should contact your local municipal clerk if you have questions about local ordinances.

For more information on state alcohol beverage and tobacco laws, write to the Wisconsin Department of Revenue, Alcohol & Tobacco Enforcement, P.O. Box 8933, Madison, WI 53708 or call (608) 266-2776.

CAUTION

- The information in this publication reflects the position of the Wisconsin Department of Revenue of laws enacted by the Wisconsin legislature as of December 1, 2015. Laws enacted after this date, administrative rules, and court decisions may change the interpretations in this publication.
- The examples and type of sales and purchases provided in this publication are not all-inclusive. They merely set forth common examples.

II. DEFINITIONS

Adult – A person who is 18 years of age or older.

Minor – A person who is under 18 years of age.

Legal Drinking Age – 21 years of age.

Underage Person – A person who is not of legal drinking age.

Beer – A fermented malt beverage containing .5% or more of alcohol by volume.

Cider - an alcohol beverage that is obtained by the fermentation of the juice of apples or pears and that contains not less than 0.5 percent alcohol by volume and not more than 7.0 percent alcohol by volume. "Cider" includes flavored, sparkling, and carbonated cider. (Effective January 1, 2016)

Intoxicating Liquor (Or Liquor) – All alcohol beverages (other than beer) containing .5% or more alcohol by volume, and all wines.

Alcohol Beverages – A statutory term which includes beer, wine, and liquor.

Provisional Retail License

1. A municipal governing body that issues licenses shall issue provisional retail licenses. The governing body may by ordinance establish standards under which the licenses shall be issued and shall by ordinance designate the municipal official having the authority to issue the provisional license.

2. The provisional retail license may be issued only to a person applying for a Class "A" beer, Class "B" beer, "Class A" liquor, "Class B" liquor or "Class C" wine.

3. The fee shall be determined locally but may not exceed $15.

4. The license will expire 60 days after issuance or when the person has been issued a license as listed under 2. The official who issued the provisional retail license may revoke the license if he or she discovers the holder made a false statement on the application.

5. A municipality may not issue a provisional "Class B" liquor license if the municipality's quota is filled.

6. No person may hold more than one provisional retail license for each type of license applied for by the holder per year.

Class "A" Fermented Malt Beverage License – Authorizes the retail sale of beer and beer-based coolers, in the original sealed container, for consumption off the licensed premises.

1. No sales to other licensees for resale;

2. May sell in any quantity to the public;

3. No beer sales between 12 midnight and 6:00 a.m.

4. Local ordinances may further restrict these hours.

5. May furnish customers with two 3 fluid ounce taste samples of beer between 11:00 a.m. – 7:00 p.m.

"Class A" Liquor License – Authorizes the retail sale of liquor and wine, in the original sealed container, for consumption off the licensed premises. A "Class A"(cider only) license authorizes the retail sale of cider, and shall be issued to a license applicant holding a Class "A" (beer) license for the same premise. The sale of intoxicating liquor is limited to cider only. Municipalities may not charge an initial issuance fee for a "Class A" (cider only) license, but publication of the "Class A" (cider only) license application is required and the license applicant shall pay the cost of publication of the license application.

1. No sales to other licensees for resale;

2. May sell in any quantity to the public;

3. May not sell intoxicating liquor and wine between 9:00 p.m. - 6:00 a.m.

4. Local ordinances may further restrict these hours.

5. May furnish customers with two 3 fluid ounce taste samples of wine between 11:00 a.m. – 7:00 p.m.

Class "B" Fermented Malt Beverage License – Authorizes the retail sale of beer and beer-based coolers for consumption on the licensed premises and for consumption off the licensed premises.

1. No sales to other licensees for resale;

2. May sell in any quantity to the public;

3. Must be closed between the following hours:

   a) Monday - Friday – 2:00 a.m. - 6:00 a.m.

   b) Saturday - Sunday – 2:30 a.m. - 6:00 a.m.

   c) Second Sunday in March – 3:30 a.m. – 6:00 a.m.

   d) New Year's Eve – No closing required.

   e) Local municipalities may NOT further restrict the closing hours.

4. No off-premises sales between 12:00 midnight - 6:00 a.m. Local ordinances may further restrict these sales hours.

"Class B" Liquor License – Authorizes the retail sale of liquor by the drink for consumption on the licensed premises and (if allowed by local ordinance) in the original sealed container for off-premises consumption.

A single, open bottle of wine may be taken off premise if ordered with a meal and re-corked prior to being taken off premise.

1. No sales to other licensees for resale;

2. Off-premises sales of liquor, when permitted by local ordinance, limited to 4 liters or less;

3. Wine may be sold in the original package, in any quantity, for on and off-premises consumption.

4. Closing hours the same as Class "B" License, above.

5. A winery that has a "Class B" (wine only) license issued under s. 125.51(3)(am) must close between 9:00 p.m. and 8:00 a.m.

"Class C" Wine License – Authorizes the retail sale of wine by the glass or in an opened original container for consumption on premises only.

A single, open bottle of wine may be taken off premise if ordered with a meal and re-corked prior to being taken off premise.

1. No sales to other licensees for resale.

2. Closing hours the same as Class "B" License, above.

Notice - With limited exceptions, all retailers of alcohol beverages may only sell to consumers who are physically at the licensed premises.

For example:

(1) A customer phones in an order to a local pizza parlor (that holds a Class B beer license) to have a pizza and a six pack of beer delivered to his home – this sale is prohibited, as the sale was not made face-to-face to the consumer at the licensed premises

(2) A group of college students call their local liquor store and ask that 6 half barrels of beer be delivered to their house for a party – this sale is prohibited, as the sale was not made face-to-face to the consumers at the licensed premises.

III. ALCOHOL BEVERAGE LAW

A. Closing Hours

1. Customers must leave the premises by the closing hour; internal business operations (counting cash, cleaning, repairs, etc.) may be done after hours but licensees must be able to prove that anyone on the premises after hours is there for these purposes.

2. Hotels and restaurants whose "principal business" is furnishing lodging and food to customers, bowling centers, indoor horseshoe pitching facilities, golf courses, and curling clubs may remain open after hours to conduct their regular business. They may not permit consumption of or sell alcohol beverages after hours.

   "Principal business" means the primary activity as determined by analyzing the amount of capital, labor, time, attention, and floor space devoted to each business activity and by analyzing the sources of net income and gross income. The name, appearance, and advertising of the entity may also be taken into consideration if they are given less weight.

B. Daylight Saving Time

Section 175.095(2), Wis. Stats., states that daylight saving time begins at 2:00 a.m. the second Sunday in March and ends at 2:00 a.m. the first Sunday in November.

As such, clocks are set ahead one hour at 2:00 a.m. the second Sunday in March. Thus taverns would close at 3:30 a.m. daylight saving time on this date.

On the first Sunday in November, the clocks are set back an hour at 2:00 a.m.; bars gain an extra hour and must close at 2:30 a.m. regular Central Standard Time.

C. Training Requirements For Completion Of The Responsible Beverage Server Training Course (Required As A Condition Of Licensing)

Applicants must successfully complete an approved training course, such as courses offered by the Wisconsin Technical College System, or similar approved courses (see "Training" on the department's web side at revenue.wi.gov) unless:

1. The person is renewing a retail or an operator's (bartender's/sales clerk's) license.

2. The person was the agent (within the last two years) for a corporation that held a Class "A" beer, Class "B" beer, "Class A" liquor, "Class B" liquor or "Class C" wine license.

3. The person held a retail license or an operator's or manager's license during the past two years.

4. The person completed such a course within the past two years.

IV. LICENSING

A license is a **privilege** granted by local authorities to a particular person, partnership, or corporation to run a particular place for the time period specified. Just as one's driver's license can't be used by another, an alcohol beverage license can't be used by someone other than the licensee to sell alcohol beverages. The license or permit of a person who violates this shall be revoked. The governing body of every city, village, and town may, **but is not required to**, issue local retail liquor and beer licenses. The municipality may refuse to issue licenses as long as it uses good judgment and does not discriminate between applicants.

V. SALE OF ALCOHOL BEVERAGES

The term "sale," "sold," or "sell" includes the transfer, gift, barter, trade, exchange, or any shift, device, scheme, or transaction whatever, whereby alcohol beverages may be obtained. Giving away alcohol beverages or using any other device to evade the law relating to its sale is an unlawful sale.

The following are some examples of illegal transactions at **unlicensed** premises:

1. A "free" drink with a meal;

2. A cover charge, whereby mix is furnished at a price, with "no charge" for liquor;

3. A "free" bottle of liquor tied into the sale of some other item.

Penalty: Fine of not more than $10,000 or imprisonment for not more than nine months, or both.

VI. SELLER'S PERMIT

A. Every individual, partnership, corporation, or other organization selling tangible personal property in Wisconsin must have a seller's permit.

B. The alcohol beverage license and seller's permit must be in the same legal name (see exception below). If the alcohol beverage license is issued to a partnership or corporation, the seller's permit must be too; not to the agent, officer, or individual. When dealing with a limited liability company (LLC) always issue the alcohol beverage license in the legal name of the LLC (not trade name or owner's name).

Exception: Some alcohol beverage licenses are issued to an LLC where the business operates as a sole proprietor or single member for sales tax purposes. In such cases the LLC's seller's permit may be issued in the name of the sole proprietor or single member of the LLC. If an LLC applies for an alcohol beverage license and furnishes a seller's permit that is not in the legal name of the LLC, call the department at (608) 266-2776 to verify whether the seller's permit is valid for the LLC.

Write... Wisconsin Department of Revenue
Mail Stop 5-77
PO Box 8949
Madison, WI 53708-8949

Phone... (608) 266-2776

Email... DORSalesandUse@revenue.wi.gov

Visit our website: revenue.wi.gov

VII. FEDERAL TAX STAMP

Before beginning business every retail licensee must file an Alcohol Dealer Registration with the federal Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Use TTB Form 5630.5d. This form is available from the TTB website at: ttb.gov/forms/f56305d.pdf or by calling the National Revenue Center at 1-800-937-8864. Once you have registered your business, any change in your business operation must be reported before the subsequent July 1, using the same form.

VIII. LICENSES FRAMED AND POSTED

All liquor and beer licenses must be framed and posted in the room where the business is carried on. Everyone visiting the business must be able to easily see the licenses in that room. Any related permits and licenses should be posted with the alcohol beverage license.

IX. REQUIRED ONSITE SUPERVISION OF LICENSED PREMISES

A. Except in Class "A" beer premises between midnight and 6:00 a.m. (or any time when the sale of fermented malt beverages is prohibited by municipal ordinance), one of the following must be present on all licensed premises during all business hours:

   1. The licensee, or;

   2. An adult member of licensee's immediate family (actually living in the licensee's household), or;

   3. The corporation agent, (the agent's immediate family members must have an operators' license, if they supervise the premises in the agent's absence), or;

   4. The holder of a provisional operator's license (issued to persons enrolled in the responsible beverage server training course pending approval of an operator's license by the municipal governing body), or;

   5. The holder of an operator's or manager's license.

B. An adult working under the immediate supervision of any of the above does not need an operator's license. **NOTE:** "Immediate supervision" means that the licensed person must be able to watch and supervise each unlicensed person's actions. This means that the licensed person must be in the same room or area as the unlicensed person, near enough to see and talk to him or her, and to be able to actually supervise the unlicensed person.

C. An operator's license is good in any premises in the municipality where it has been issued, but it may be used only in that municipality. Licensees may be prosecuted for not having the required supervision on their premises.

X. SALE TO INTOXICATED PERSONS

It is illegal to furnish alcohol beverages to an intoxicated person. The penalty for this violation is $100-$500 fine, imprisonment for not more than 60 days, or both.

XI. REFILLED LIQUOR BOTTLES

A. It is illegal to refill any liquor bottle; you may not pour any substance into a liquor bottle, even the same brand of liquor.

B. When a bottle is empty, deface its label and break the bottle. If the bottle has a Wisconsin tax stamp, deface this, too.

C. You don't have to break bottles saved for recycling; however, the labels must be defaced. Bottles saved for recycling must be placed in boxes marked "For Recycling Only."

D. You do not have to break empty ceramic decanters, but you must deface the tax stamp, if any.

XII. IDENTIFICATION REGISTER

A. The Department of Revenue recommends that every licensee keep an identification register book. The ID register may be used to record the identity of a person who alleges he or she is of legal drinking age. The book may also be used to record the identity of a person who alleges that he or she is an underage person's parent, guardian, or spouse and that he or she has attained the legal drinking age. Record the date of purchase, the type of identification used, and the address of the purchaser, then have the purchaser sign the register. Check the signature in the book against the signature on the ID to see that they match.

B. The "Proof of Age Register" or "Identification Register Book" may be purchased, at a small fee, from:

   1. Tavern League of Wisconsin, 2817 Fish Hatchery Road, Fitchburg, WI, 53713-5005, phone: (608) 270-8591, email: info@tlw.org.

2. Wisconsin Grocers Assn., One S. Pinckney, Ste. 504, Madison, WI, 53703, phone: (608) 244-7150,
email: sdecorah@wisconsingrocers.com.

XIII. PRESERVATION OF RECORDS

Alcohol beverage (and cigarette and tobacco products) retailers must purchase these products only from **Wisconsin wholesalers**. They may not be transferred between retail accounts, except that alcohol beverages may be transferred as specified in "Transfer of Alcohol Beverage Stock," below.

Keep invoices for all purchases of liquor, beer, (and cigarettes and tobacco products) on the licensed premises for 2 years from the date of the invoice. Keep them in sequence and in chronological order. They must be available for inspection during business hours.

XIV. TRANSFER OF ALCOHOL BEVERAGE STOCK

If you sell your business, you may transfer your sealed liquor, wine and beer stock to another retail licensee in this state. List your entire sealed stock on an inventory Form AT-900 available at the Department of Revenue's website at revenue.wi.gov. Complete this form in duplicate, sign it, and have it signed by the buyer. Give one copy to the buyer, to be kept as an invoice on the licensed premises, and keep one copy for your own records. Cigarettes and tobacco products may not be transferred.

XV. "WINE OR BEER WALKS"

A. A "wine or beer walk" is a single-day event at which customers are served a glass of beer or wine at multiple locations (e.g., jewelry stores, art galleries, clothing boutiques, salons, furniture stores, etc.) during their shopping visits.

B. Effective October 23, 2015, Wisconsin law (2015 Wisconsin Act 62) authorizes a municipality to issue Temporary Class "B" (beer) licenses and Temporary "Class B" (wine only) licenses to a qualified organization, including a chamber of commerce or similar civic or trade organization organized under chapter 181 of the Wisconsin statutes to promote economic growth and opportunity within a local geographical area.

C. Single-Day, Multiple-Location Event

1. WINE EVENT: A municipality may issue to a qualified organization up to 20 Temporary "Class B" (wine only) licenses for a single-day, multiple-location event (commonly referred to as a "wine walk") on a specific date and time.

   a. The Temporary "Class B" (wine only) licenses must be issued to the same qualified organization, who is the licensee and sponsor of the single-day, multiple-location event

   b. The Temporary "Class B" (wine only) licenses must be issued for the same date and time

   c. An admission fee must be charged for participation in the event and no additional fee can be charged for the wine

   d. A municipality may authorize the licensee to permit unaccompanied underage persons to be on the licensee's premise only if the underage person is acting as a designated driver and has been provided a means of identification, such as a wristband, by the licensee

   e. No person may serve wine after 9:00 p.m. on premises for which Temporary "Class B" (wine only) licenses are issued for a single-day, multiple-location event

   f. A qualified organization may receive Temporary "Class B" (wine only) licenses for up to two events during a 12-month period, and a municipality may issue Temporary "Class B" (wine only) licenses for a total of up to two events during a 12-month period

2. BEER EVENT: A municipality may issue to a qualified organization Temporary Class "B" (beer) licenses for a single-day, multiple-location event (commonly referred to as a "beer walk") on a specific date and time.

a. The Temporary Class "B" (beer) licenses must be issued to the same qualified organization, who is the licensee and sponsor of the single-day, multiple-location event

b. The Temporary Class "B" (beer) licenses must be issued for the same date and time

c. An admission fee must be charged for participation in the event and no additional fee can be charged for service of the beer

d. Municipalities may authorize a Temporary Class "B" (beer) licensee to permit underage persons on the premises for which a beer license is issued

e. There is no limit to the number of Temporary Class "B" (beer) licenses a municipality may issue to a qualified organization

3. A municipality is authorized to charge a fee not exceeding $10 for each Temporary Class "B" (beer) or Temporary "Class B" (wine only) license issued for the single-day, multiple-location event.

4. Requirements applying to other alcohol beverage licensees also apply to Temporary "Class B" (wine only) and Temporary Class "B" (beer) licensees. Some of these requirements include:

   a. The presence of licensed operators to serve the wine or beer and/or supervise the service of wine or beer. Licensed operators are persons holding an "operator's license", often called a "bartender's license". Temporary operator's licenses may be issued to persons employed by or donating services to the qualified organization for the event. A person may hold two temporary operator licenses per year.

   b. Licensees must purchase all wine or beer from liquor or beer wholesalers or breweries/brewpubs authorized to self-distribute to retail licensees.

D. Applications for Temporary Class "B" (beer) or Temporary "Class B" (wine only) licenses to hold a single-day, multiple-location event should be submitted to the municipality by the qualified organization using the *Application for Temporary Class "B" / "Class B" Retailer's License* (Form AT-315). The qualified organization should list each of the participating locations, describing the premises, or submit a separate application for each of the multiple locations participating in the single-day, multiple-location event. Either method of submitting license applications is acceptable.

XVI. CORKAGE FEES

Corkage Fees: Wisconsin alcohol beverage law does not allow "corkage fees" – fees charged by restaurant owners to allow patrons to carry in their own alcohol beverages to be consumed on the premises.

If the restaurant does have an alcohol beverage license, the only alcohol beverages allowed on the premises are those which the retailer has purchased from a licensed Wisconsin wholesaler; the retailer is required to have invoices from the wholesaler showing what product the retailer has purchased from the wholesaler.

If the restaurant does not have an alcohol beverage license, allowing consumption of alcohol beverages is prohibited and the restaurant owner can be charged for allowing its illegal consumption.

XVII. CREDIT LAWS

A licensee may only buy liquor or beer for cash or on credit terms for a period not to exceed 30 days (liquor) or 15 days (beer). Licensees may not buy liquor if they are in debt to any liquor wholesaler for more than 30 days, or beer if they are in debt to any beer wholesaler for more than 15 days. A person may not be issued a license if he or she exceeds these limits.

XVIII. INSPECTION OF LICENSED PREMISES

A. Licensed premises may be inspected by law enforcement officers during all reasonable hours, including all business hours. All rooms connected

to the barroom, sales room, or storage area may be inspected as part of the licensed premise. Refusing to permit an inspection is grounds for revocation or suspension of the license.

B. Liquor, beer, cigarettes, and personal property kept in violation of the statutes may be seized.

XIX. UNDERAGE PERSONS ENTERING LICENSED PREMISES

A. An underage person accompanied by his or her parent, guardian, or spouse of legal drinking age may be on any licensed premises.

B. An unaccompanied underage person may enter a Class A alcohol beverage licensed premises to buy items other than alcohol beverages. The underage person may not stay on the premises after the purchase.

C. An unaccompanied underage person may also enter a licensed premises if:

1. He or she is an employee, resident, lodger, or boarder on the premises, or;

2. He or she enters to do business other than amusement or the purchase or consumption of food and beverages (see exception B above), or;

3. He or she enters to buy food in a restaurant whose "principal business" is serving food, or;

4. The premises is a hotel, drug store, grocery, bowling center, service station, indoor golf simulator facility, vessel, private tennis or soccer club, ski chalet, golf course or clubhouse, racetrack licensed under ch. 562, indoor or outdoor volleyball court, curling club, billiards center having 12 or more billiards tables, privately owned fishing business that is open to the public for a fee, car operated on a railroad, a regularly established athletic field or a county or municipally owned public facility as defined in sec. 125.51(5)(b), Wis. Stats., of the statutes, or a center for visual or performing arts, or;

5. The premises is in a state park or forest or a park owned by an agricultural society receiving state aid.

6. The premises has a Class "B" beer or "Class B" liquor license and the underage person is there to do business at an auction or flea market. In this case, the underage person may not enter any room where alcohol beverages are sold, furnished or possessed.

7. The premises has a Class "B" beer or "Class B" liquor license and the underage person is in a room where no alcohol beverages are sold, furnished, served, or consumed by anyone when the underage person is present. This applies only if the municipality adopts an ordinance allowing it. The local law enforcement agency must authorize, in writing, the presence of underage persons on the date of the authorization. A separate authorization is necessary for each date on which underage persons will be on the premises. (Sec. 125.07(3)(a)(8), Wis. Stats.)

8. The underage person is on Class "B" or "Class B" licensed premises, on a date specified by the license, when no alcohol beverages are consumed, sold, or given away. The licensee, the agent named on the license (if a corporation), or a person with an operator's license must be on the premises unless all alcohol beverages are in locked storage. The licensee must notify the local law enforcement agency, in advance, of when underage persons will be on the premises. (Sec. 125.07(3)(a)(10), Wis. Stats.)

9. The underage person enters and remains in a dance hall, or banquet or hospitality room attached to a Class B licensed premises, for the purpose of attending a banquet, reception, dance or other similar event.

10. The underage person is at least 18 years old, and is working under a contract with a licensee, permittee, or corporate agent to provide entertainment for customers on the premises.

11. The premises is issued a temporary Class "B" (picnic) beer license and the licensee is authorized to permit underage persons on the premises by the official or body of the municipality that issued the license, or, the premises is licensed as a temporary "Class B" (wine only) license and the licensee is authorized to permit unaccompanied underage persons, acting as

designated drivers, who are provided a means of identification by the licensee, such as a wristband to be on the licensee's premise.

Note: When the purpose of the above exemptions (that is, bowling, dining, recreation, etc.) can be accomplished without the underage person being in the barroom or other areas where alcohol beverages are sold or consumed, the underage person may not enter or remain in such areas (State vs. Ludwig Lanes, 31 Wis. 2nd 690).

D. No retail licensee may permit an underage person, not accompanied by a parent, guardian, or spouse of legal drinking age, to enter any part of the licensed premises for any purpose except those stated on pages 10 and 11.

E. You should demand proof of age of anyone entering the premises who appears to be under the legal drinking age. Wisconsin residents may prove age with either a valid Wisconsin identification card or a pictured Wisconsin driver's license. You or your employee should require anyone who has shown proof of legal drinking age to sign an ID register book, if the person's age is in question. Record the date of purchase, the identification used, the address, and the signature of the purchaser in the book. The book should be kept on the premises and available for inspection by any peace officer. (Sec. 125.07(7), Wis. Stats.)

XX. SALES AND SERVICE OF ALCOHOL BEVERAGES TO UNDERAGE PERSONS

An underage person accompanied by a parent, guardian, or spouse of legal drinking age may be sold or served alcohol beverages in any licensed premises. (Sec. 125.07(1), Wis. Stats.)

XXI. POSSESSION OF ALCOHOL BEVERAGES BY UNDERAGE PERSONS

An underage person may not possess alcohol beverages anywhere unless accompanied by a parent, guardian, or spouse of legal drinking age (sec. 125.07(4)(b). This does not apply to underage persons employed by the following types of licensees or permittees, in the course of this employment: (sec. 125.07(4)(bm), Wis. Stats.)

A. Brewers

B. Beer wholesalers

C. Liquor wholesalers

D. Facilities for the production of alcohol fuel

E. Retail licensees or permittees, under the provisions of secs. 125.32(2) and 125.68(2), Wis. Stats., (laws covering operator's licenses), or for delivery of unopened containers to the home or vehicle of a customer.

F. Campuses, if the underage person is at least 18 years of age and is under the immediate supervision of a person of legal drinking age.

XXII. NONALCOHOL "BEER"

Section 125.02, Wis. Stats., classifies "alcohol beverages" as those beverages containing 0.5% or more alcohol by volume. Beverages that contain less than 0.5% alcohol by volume are not classified as "alcohol beverages". Thus, these "nonalcohol" beverages are not regulated by Chapter 125; they are to be treated the same as other noncarbonated waters and sodas, and may be sold to anyone, regardless of age.

These beverages should not be confused with those labeled "low alcohol" (L.A.), which generally contain 3.2% alcohol, and are regulated by Chapter 125 as being alcohol beverages.

XXIII. EMPLOYMENT OF MINORS

A. Minors under 14 years of age may not be employed where alcohol beverages are sold except that minors as young as 12 may be employed at such establishments if their parents own the business.

B. Minors 14 and older may be employed where alcohol beverages are stored, sold, or served if they are not serving, selling, dispensing, or giving away alcohol beverages. This applies to all places licensed to sell alcohol beverages, including stores, service stations, bars, and restaurants.

C. Minors may not be employed or appear as musicians, singers, performers, or dancers at roadhouses, dance halls, night clubs, taverns, or similar places, except:

1. Minors 16 or 17 years of age may be employed or appear as musicians in a hall on Friday, Saturday, or any other day not followed by a school day, or before midnight on Sunday, if the hall was rented to celebrate a special event such as a wedding, holiday, birthday, or anniversary.

2. Minors may be so employed or appear at dances held solely for minors, conducted by private clubs or civic organizations, where admission is limited to the club membership or by club invitation, and the general public is excluded. (Sec. 103.78, Wis. Stats.).

(Sec. 103.78(1)(d), Wis. Stats., and Wis. Adm. Code DWD 270.)

XXIV. OTHER LAWS RELATING TO UNDERAGE PERSONS

A. No one may falsely represent that he or she is of legal drinking age to ask for or obtain alcohol beverages in any licensed premises. (Sec. 125.07(4), Wis. Stats.)

B. No one may possess or consume alcohol beverages in a public, parochial, or private school, through 12th grade, or in a vehicle owned by, rented, or consigned to a school or while participating in a school activity, without the express, written permission of the school administrator (sec. 125.09(2), Wis. Stats.) Permission may not be given to underage persons.

C. A licensed alcohol beverage retailer may bring a civil action against a person who violates the state's underage drinking law, if the following conditions are met:

- The conduct must occur on the retailer's premises
- The retailer must mail notice of the intent to bring action to the underage person or the underage person's parent, as applicable at least 15 days prior to filing the action
- The retailer must not have been convicted of, received a citation for, or been charged with a violation of the underage drinking law
- The retailer must have reported the suspected conduct to law enforcement at or near the time when the conduct was first discovered

This provision does not apply if the underage person was employed by or assisting a law enforcement agency in carrying out enforcement to determine compliance with, or investigating potential violations of the prohibition on underage persons in licensed premises. A retailer prevailing in the civil action shall be awarded $1,000 in damages and the costs of bringing the civil action. (Sec. 125.07(4)(f), Wis. Stats.)

XXV. PENALTIES FOR VIOLATIONS

A. Alcohol beverage licensees permitting unaccompanied underage persons to unlawfully enter the premises are subject to a forfeiture of not more than $500. (Sec. 125.07(3), Wis. Stats.)

B. An unaccompanied underage person unlawfully entering a licensed premises is subject to a forfeiture of not less than $250 nor more than $500, suspension of his or her motor vehicle operating privilege as provided under sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program, or a combination of these penalties.

C. A person selling or furnishing alcohol beverages to an unaccompanied underage person is subject to a forfeiture of not more than $500 if the person has not committed a previous violation within 30 months of the violation nor more than $500 or imprisoned not more than 30 days or both for a subsequent offense within 30 months of the violation. (Sec. 125.07(1), Wis. Stats.)

D. An underage person misrepresenting his or her age to obtain alcohol beverages is subject to the same penalties described in B. above.

E. Anyone unlawfully possessing or consuming alcohol beverages on a school premises, in a school vehicle, or while participating in a school activity is subject to a forfeiture of not more than $200 (sec. 125.09(2)(d), Wis. Stats.) except that disposition in the proceedings against an underage person shall be as provided by ss. 48.344 and 125.07(4)(c) and (d), Wis. Stats..

F. The alcohol beverage license of any person committing a violation of sec. 125.07(1), Wis. Stats. shall be suspended for:

1. Not more than 3 days if a second violation is committed within 12 months of a previous violation.

2. Not less than 3 days nor more than 10 days if a third violation is committed within 12 months of two previous violations.

3. Not less than 15 days nor more than 30 days if a fourth violation is committed within 12 months after committing three other violations.

XXVI. FALSE ID CARDS - PENALTIES

A. Anyone other than a person authorized by sec. 25.085, Wis. Stats., or sec. 343.50, Wis. Stats., who makes, alters, or duplicates an official identification ("ID") card, provides an official ID card to an underage person, or knowingly provides other documentation to an underage person claiming that the underage person is of legal drinking age may be fined not less than $300 nor more than $1,250 or imprisoned not less than ten days nor more than thirty days, or both.

B. Any underage person who does any of the following may be penalized. For a first violation, a forfeiture of $300 - $1,250, suspension of the person's driving privilege, participation in a supervised work program, or any combination of these penalties.

1. Intentionally carries an official ID card not legally issued to him or her, an official ID card obtained under false pretenses, or an official ID card which has been duplicated to give false information.

2. Makes, alters, or duplicates an official ID card.

3. Gives false information in applying for an official ID card.

4. Intentionally carries an ID card or other documentation showing that he or she is of legal drinking age, knowing that the documentation is false.

5. Provides to another underage person an official ID card or other documentation claiming that the other underage person is of legal drinking age, knowing that the documentation is false.

C. Any person who violates "A," above, for money or other consideration is guilty of a Class I felony.

XXVII. ID/DL CHECKING GUIDE

A. False ID/DL Checking Guide

- Ask pertinent questions about the ID presented. For example, if an ID card is presented as proof of age, ask how the driving was on the way to the establishment. If the person was driving, ask to see his DL.
- Check the card's expiration date. If the DL has expired, maybe it really does not belong to the holder, but to an older sibling who has already got a replacement for it. How did he/she get to the establishment - drive, using an expired DL?
- Watch for stamp of "duplicate" on the card. If they have a duplicate, maybe someone else has the original, and one of them is lying.
- People with false IDs rarely carry backup documentation, whereas most people have several forms. When confronted with a possible false ID, ask for further documentation.
- Question the carrier as to some basic information on the card, such as address, exact birth date, middle initial, or spelling of last name. If they don't answer to your satisfaction, refuse service and request that they immediately leave.

B. Things to look for:

- Glue lines.

- Bumpy surfaces by the picture or birth date. Any surface area inconsistent with the rest of the ID usually indicates tampering.
- Overlay of reprinted numbers (and a shadowy or cloudy image). ID card may have been opened to alter numbers.
- Missing spots on the state logo. ID alterers often forget to pay attention to one of the most obvious clues on the card.
- Comparison to legitimate DL or ID. Letters and numbers; size of lettering; format of the card. How may digits for expiration and date of birth?
- Use a blacklight and magnifying glass to check for security features such as ultraviolet/microprinting on the DL or ID.
- Check reverse side lettering. Oftentimes counterfeiters will spend great amounts of time on reproducing an authentic-looking photoboard, but will merely photocopy the reverse side. These are often blurred, a sure sign of photocopying.
- Bend the card, feel it. How does it feel compared to the authentic card?
- What is the color of card?
- Check the size of the DL. How does it compare to a genuine one?
- Check the color/thickness and clarity of lettering.
- Check thickness of the card.
- Check the corners of the card. Are they well-rounded and smooth or uneven and jagged? This is one of the best methods for detecting counterfeit cards.
- Is there shading or glare on the picture or redness in eyes? Most driver licensing stations have their cameras set to avoid these problems.
- Use an ID Checking Guide, especially in areas where there is a heavy out-of-state population (colleges, tourist communities). There are several commercial companies that publish these guides, which picture all of the states' driver's licenses.
- Consistency with the numbers. These are often targets for alteration experts. Look closely, because they may really be altered.
- Always check the reverse side.
- Compare questionable document to the "standard", your own driver's license. Check letters and numbers, both for size and consistency against the authentic card.
- Check the laminate. How does it compare to the authentic? Is it clear or cloudy?

XXVIII. CIVIL LIABILITY FOR RETAINING ID

Civil Liability for retaining proofs of age. (Sec. 125.039, Wis. Stats.).

No person who holds a license or permit and no employee of such a person is civilly liable for retaining a document presented as proof of age for a reasonable length of time in a good faith effort to determine whether the person who presented the document is an underage person or to notify law enforcement of a suspected violation of carrying a false ID.

XXIX. CIGARETTE/TOBACCO PRODUCTS LAWS

A. Definitions:

- Cigarette - any roll of tobacco wrapped in paper or any substance other than tobacco.
- Nicotine Product – means a product that contains nicotine and is not any of the following:

  1. A tobacco product.
  2. A cigarette.
  3. A product that has been approved by the U.S. food and drug administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.

- Tobacco Products - any form of tobacco prepared in such a manner as to be suitable for chewing or smoking, but does not include cigarettes.
- Adult - a person who is 18 years of age or older.
- Minor - a person who is under 18 years of age.

B. License Required - You may not in any manner or upon any pretense or by any device, directly or indirectly sell, expose for sale, possess with intent to sell or give away any cigarettes or tobacco products to any person not holding a license or permit under sec. 139.30-139.41 or 139.79, Wis. Stats., without first obtaining a license from the municipality where you are doing business.

C. Purchases/Preservation of Records - No retailer may possess cigarettes or tobacco products purchased from anyone other than a manufacturer, distributor or jobber who holds a valid permit from the Wisconsin Department of Revenue. If a retailer purchases tobacco products from an out-of-state company that does not have a permit from the Wisconsin Department of Revenue, the retailer must obtain the permit from the Wisconsin Department of Revenue. Retailers must keep invoices for all purchases of cigarettes/tobacco products on the licensed premises for 2 years from the date of invoice. Keep them in sequence and in a chronological order. They must be available for inspection at all reasonable hours, including all business hours.

D. Inspection of Licensed Premises/Confiscation Authority - Licensed premises may be inspected by law enforcement officers during all reasonable hours, including all business hours. All cigarettes or tobacco products kept in violation of the laws and all personal property used in connection is subject to seizure. Any refusal to permit the inspection is punishable by fine, imprisonment or both.

E. Sales to Minors/Sales of Individual Cigarettes - No retailer may sell or give away cigarettes, tobacco products, or nicotine products (including electronic cigarettes containing nicotine) to minors; no retailer may sell individual cigarettes.

F. Possession of Cigarettes/Tobacco Products/Nicotine Products by Children - A child may possess cigarettes/tobacco products/nicotine products for the sole purpose of resale in the course of employment during his/her working hours if employed by a retailer licensed under sec. 134.65, Wis. Stats.

G. Training Requirement - Retailers are required to provide training to employees whose duties include the sale of cigarettes/tobacco products/nicotine products. The training program must be an approved program by the Department of Health and Family Services.

H. As of March 1, 2004, only those cigarettes and Roll-Your-Own (RYO) tobacco products listed on the Wisconsin Department of Justice's (DOJ) website listing labeled **Directory of Certified Tobacco Manufacturers and Brands** may be sold to Wisconsin consumers. (DOJ's website: https://www.doj.state.wi.us/dls/tobacco-directory.) Product that is not listed cannot be sold or possessed for sale after the date shown on the website listing. Wholesalers **and** retailers who possess this product for sale or sell this product in violation are subject to confiscation of that product and/or fines, forfeitures and revocation of their permits.

I. Minimum Markup on Cigarettes and Tobacco at Retail. The unfair Sales Act Sec. 100.30, Wis. Stats., commonly referred to as the Minimum Markup Law", applies to the sale of cigarettes and tobacco products and is regulated by the Wisconsin Department of Agriculture, Trade & Consumer Protection (DATCP). For questions on cigarette and tobacco products pricing/markup, please contact DATCP at the following numbers: (608) 224-4992 or (608) 224-4989.

   Alcohol or tobacco products may not be sold at less than cost by either wholesalers or retailers. Cost includes a presumptive 3% markup by wholesalers and presumptive 6% markup by retailers.

XXX. VIDEO GAMBLING

Effective July 26, 2003, the video gambling statutes were amended to provide that only a Special Agent of the Department of Revenue that is certified as a law enforcement officer may investigate or enforce video gambling violations on Class B alcohol beverages li-

censed premise, if the Class B premises has *no more than five video gambling machines.*

The penalties for having five or fewer video gambling machines on a Class B premises include seizure of the machines, seizure of money in the machines, and a penalty of $500 per machine per incident. A municipality may also enact ordinances regulating these machines.

It is a felony for a Class B establishment to have more than five video gambling machines on premises; it is also a felony for a Class A licensee to have any video gambling machines on premises. In these instances, the licensee may be arrested either by a Special Agent of the Department of Revenue or a law enforcement officer in the jurisdiction where the arrest is made.

The Department of Revenue conducts tax audits of both machine operators and Class B establishments. The gross receipts from these illegal machines is also subject to Wisconsin sales tax, the net income is subject to Wisconsin income or franchise tax, and the purchase of the machines is subject to Wisconsin sales and use tax.