

The Policy Behind How Alcohol is Sold and Served in Wisconsin

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LICENSING BASICS

LICENSE -- A license is a privilege granted by local authorities (city, village or township) to run a particular place for a particular time period.

-may “extend” premises with approval of governing body only

An alcohol license, like a drivers license, can only be used by the person to whom it is issued.

A municipality may refuse to issue licenses as long as it uses good judgment and doesn't discriminate.

LICENSING BASICS

State law 139.08(4) provides that licensed premises are subject to inspection at “all reasonable hours”

- inspection may include books, papers and records
- refusal to permit inspection may result in suspension or revocation of license.
- inspection may be conducted by DOR, DOJ, sheriff, police, marshal or constables.

LICENSING BASICS

- Individual or Partnership -- John Doe or John & Jane Doe (Actual persons)
- Corporation -- ABC Corporation (Must appoint an “Agent”: Real person who is responsible)
- Limited Liability Company -- ABC LLC (Must also appoint an “Agent”)

TYPES OF ALCOHOL LICENSES

- Class A -- “away” Sale for consumption off premises.
 - Current law allows a Class A to permit wine sampling
- Class B -- “bar” Sale for consumption on premises or off premises. (Any sale to go off premise must be in the original, unopened container)

Class A can be for beer only, liquor only or a combination of both. B liquor only may not be issued

TYPES OF ALCOHOL LICENSES

- Class C -- allows restaurants to sell wine only.
- Temporary Licenses -- allows bona fide clubs, non-profit organizations, churches to sell beer or wine at short duration gatherings.
 - Often referred to as “picnic” license.

The state requirements set minimum requirements for issuing licenses.

- ✓ Municipalities may adopt additional criteria not in conflict with state law.
For example: No licensed establishments within 1,000 feet of school or park.
- ✓ A municipality may refuse to issue or grant license for any reason that is not discriminatory or arbitrary and provided in writing to the applicant.
For example: We don't need another bar in Ourltown, Wisconsin.

Application Process

State Required Steps:

1. Sworn application form filed with municipal clerk least 15 days in advance.
2. Municipal publication of application information in local newspaper.
3. Vote by municipal governing body.

Municipalities may require more

- www.cityofmadison.com/clerk
- Supplemental Class A License Application
- Supplemental Class B License Application
- Must contact the Alder, Neighborhood Association & Police Department Sector prior to the ALRC meeting

There is no right to an
alcohol license in Wisconsin.

Alcohol License Quotas

Wisconsin imposes a quota on the number of Class B (taverns, bars, restaurants licensed to sell both fermented malt beverages and distilled spirits for on-premises consumption) in each municipality based on population.

There is no state quota on the number of types of retailers selling alcohol for off-premises consumption: grocery stores, gas stations and other retailers.

There is no state quota on the number of establishments licensed to sell and serve only beer and wine.

A municipality may impose more restrictive limits on the number or type of alcohol outlets than the state does.

OPERATOR'S LICENSES

Not everyone tending bar in Wisconsin needs to have a bartending license.

Every licensed premises must have on the premises in the sales **someone with an operator's license or privilege of an operator's license area.**

Who has privilege?

OPERATOR'S LICENSES

A premises licensed to sell alcohol may not be open for business without a licensed operator being present.

Only Exception: Class A beer license, during hours when alcohol sales prohibited by law.

OPERATOR'S LICENSES

Anyone serving alcohol must have an operator's license or privilege of one,

OR

Be under immediate visual supervision of someone who does have one.

OPERATOR'S LICENSES

A person must be at least 18 years old to sell or serve alcohol

An Operator's License is valid only within the municipality where issued.

-can be used anywhere in that municipality.

Community Criteria for Operators

- Communities can establish specific internal criteria for operators, not in conflict with state statute.
- Most communities conduct background checks prior to issuing operators' permits.

Ch. 125 Alcohol Beverage Laws

- Defined by state statute
- Controlled on a local basis
- Liquor licenses issued by the municipality, typically, the City Clerk



Municipalities Rule!



- When it comes to licensing liquor, **YOU RULE**
- Municipality runs the show
- You make the rules

MUNICIPAL REGULATION

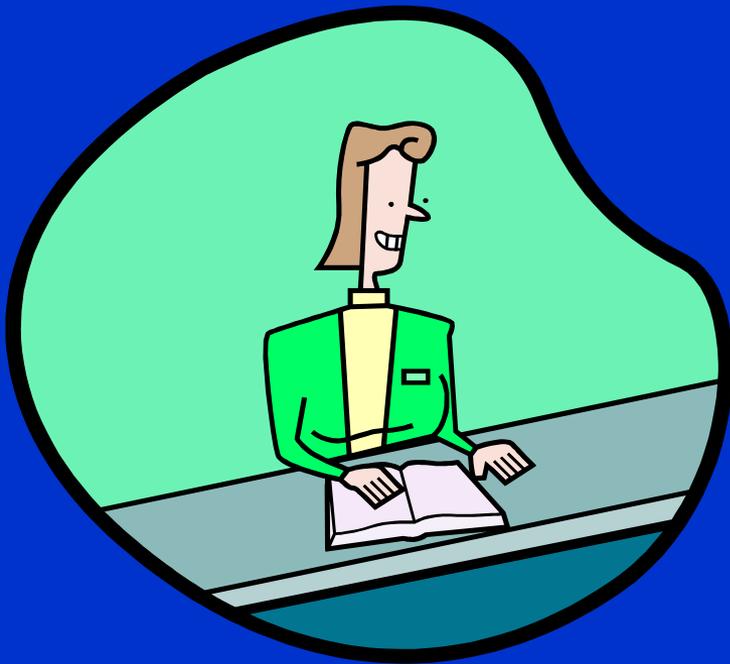
Statute 125.10 authorizes municipalities to enact additional regulations for the sale of alcohol so long as they are not in conflict with Ch.125.

Municipalities may also prescribe forfeitures or license suspensions or revocations for violations of any such enacted regulations.

Sec. 125.10 Municipal regulation

- Any municipality may enact regulations incorporating any part of this chapter and may prescribe additional regulations for the sale of alcohol beverages, not in conflict with this chapter. The municipality may prescribe forfeitures or license suspension or revocation for violations of any such regulations. Regulations providing forfeitures or license suspension or revocation must be adopted by ordinance.

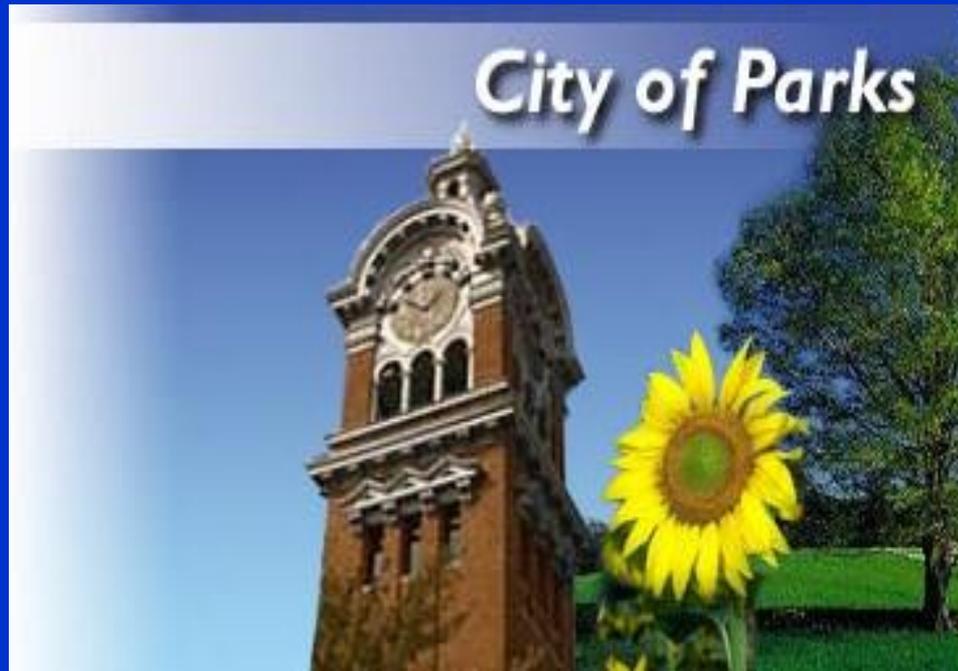
Sec. 125.12(2)



- Any resident of a municipality issuing liquor licenses
- May file a sworn complaint w/city clerk
- Alleging one or more violations of Ch. 125
- Seeking license revocation or suspension

Ordinances

<http://wilawlibrary.gov/topics/ordinances.php>



State Statutes

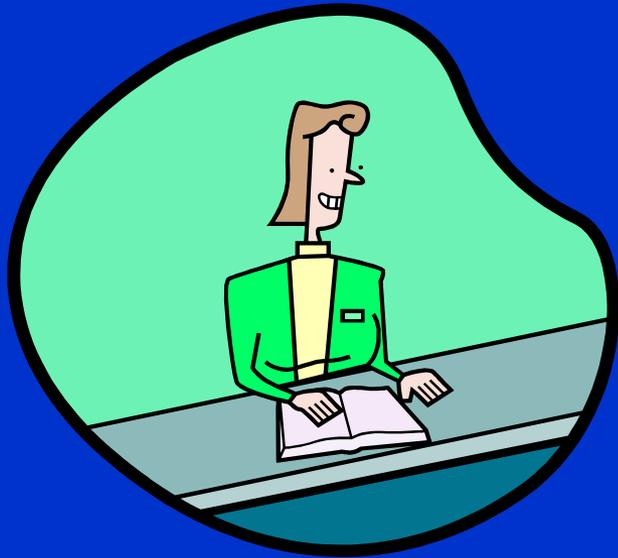
<http://www.legis.state.wi.us/rsb/stats.html>



HOURS OF SALE

- Class A's..... may not sell:
 - Beer Midnight to 8:00am
 - Liquor 9:00pm to 8:00am
- Municipalities MAY impose MORE restrictive hours
- Municipalities MAY NOT impose LESS restrictive hours
- Class B's..... may not sell:
 - Beer & Liquor 2:00am - 6:00am Monday - Friday
 - Beer & Liquor 2:30am - 6:00am Sat. & Sun.
- To-go sales must cease at 12:00am (Sale v Carry out)
- Municipalities MAY impose MORE restrictive carryout hours

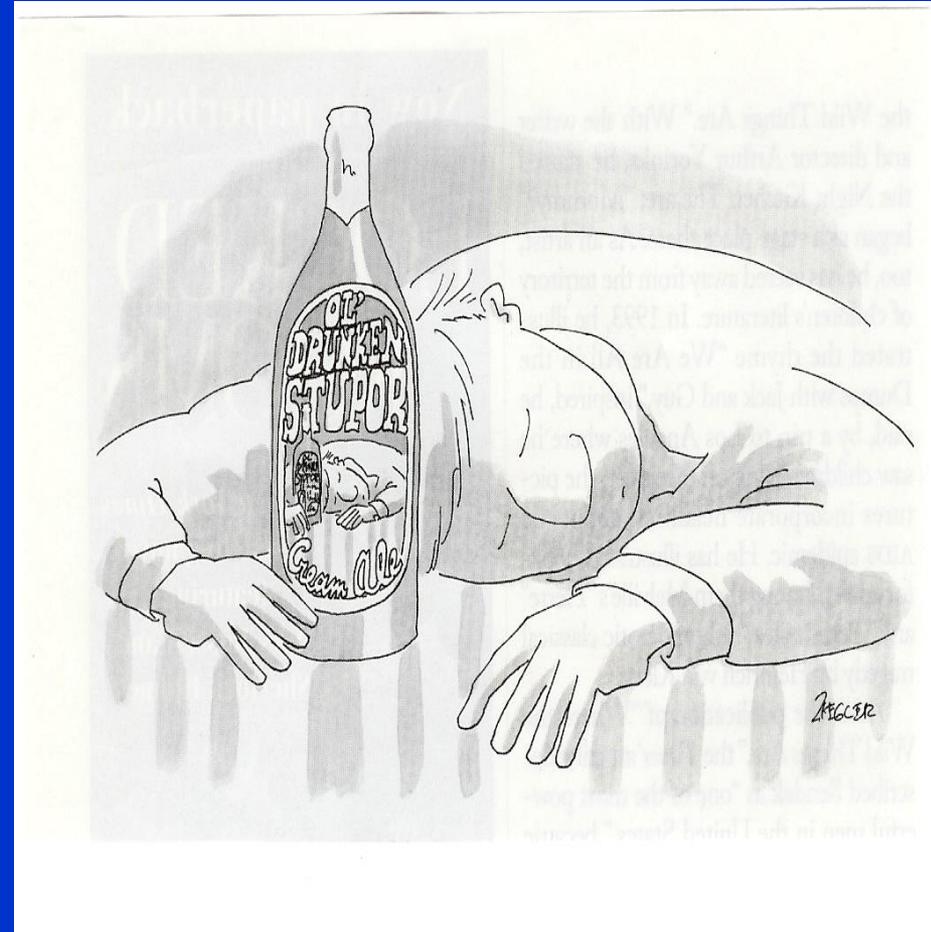
Sec. 125.12(2)



- Any resident of a municipality issuing liquor licenses
- May file a sworn complaint w/city clerk
- Alleging one or more violations of Ch. 125
- Seeking license revocation or suspension

Sec. 125.07(2)

- No person may sell, dispense or give away alcohol to an intoxicated person
- No licensee may sell, vend, deal or traffic in alcohol to an intoxicated person



Penalties



- Fined not less than \$100 nor more than \$500
- Or imprisoned for not more than 60 days or both

REVOCAATION/SUSPENSION PROCESS [Statute 125.12]

Initiated by a sworn written complaint **by any resident of the municipality**, including municipal officials with municipal clerk:

Alleges one or more of the following :

1. Violated Chapter 125 or municipal regulations adopting
2. Disorderly or riotous, indecent or improper house
3. Sold or given away alcohol to known habitual drunkards
4. Person does not possess the qualifications to hold license
5. Controlled substance violations

Sec. 125.12(3)

- Nonrenewable requires the same steps as suspension or revocation.
- Revocation, non-renewal and suspension can be expensive and time consuming.
- Municipal criteria consistently applied to prevent problems later.

REVOCAATION/SUSPENSION PROCESS

- After complaint filed; summons issued to appear
- Licensee must appear before issuing body
- If licensee does not appear, license shall be revoked
- If licensee appears, hearing is held
- If complaint is TRUE, license shall be suspended not less than 10 days nor more than 90 days or revoked

Hearing Procedure

- If the licensee appears & denies the complaint,
- Both complainant and licensee may produce witnesses, cross-examine witnesses and be represented by counsel
- A written transcript is provided licensee at his or her expense
- Check your local ordinance for procedure-- if none, state statute controls

License Transfers

Changes in Location

- Licenses are transferred when the **location** changes.
- When the ownership changes it is processed as if it was a new license, although quota or density issues may not be applicable for an existing establishment.

Parental Exception

- **Sec. 125.07(1)(a)**
- An underage person may legally be served alcohol provided
- Accompanied by his or her parent, guardian or spouse who has attained the legal drinking age

RETAINING PROOFS OF AGE

A retailer may retain 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 underage,

OR.....

RETAINING PROOFS OF AGE

A retailer may retain a proof of age to notify a law enforcement authority of a suspected violation of fake ID laws.



Who can alcohol be sold to?

- If in doubt, a sale does NOT have to be made!
- Alcohol may be sold to an underage person who is accompanied by a parent, guardian or spouse of legal drinking age.
- An ID Register is another safeguard.

What can be sold?



NON-ALCOHOL BEERS

Products such as O'Douls, Sharps and others are not considered alcohol beverages under Wisconsin Law.

They may be sold to anyone.

MORE ALCOHOL LAWS...

- No person may “sell” alcohol without holding the appropriate license.
- No person may “give away” alcohol to evade any law relating to the sale of alcohol.

MORE ALCOHOL LAWS....

Wisconsin law defines “sale” or “sell” to include **ANY TRANSFER** of alcohol or any shift, scheme, device or transaction to obtain alcohol beverages.

(Buying a cup, buying the mix, trespass fee)

SELL = DISPENSE



MORE ALCOHOL LAWS...

No owner or person in charge of a public place may permit the consumption of alcohol on the premises unless the person has an appropriate license or permit.

- Spas, Nail Salons serving wine without an alcohol license to customers while services are rendered
- Furniture Stores/Jewelry Stores offering bottles of wine with purchase of new sofa; “Men’s Night” at jewelry stores w/beer

NUISANCE STATUTE

125.14(5)

Any building or place where alcohol beverages are sold/stored/ possessed without a valid permit or license
or
where persons are permitted to drink alcohol beverages in violation of alcohol laws is deemed a **public nuisance**,
and may be closed until the activity in violation is abated.

ID REGISTERS

Sec. 125.07(7) provides that every retail alcohol licensee MAY keep a book for the purpose of defense of proof of age.

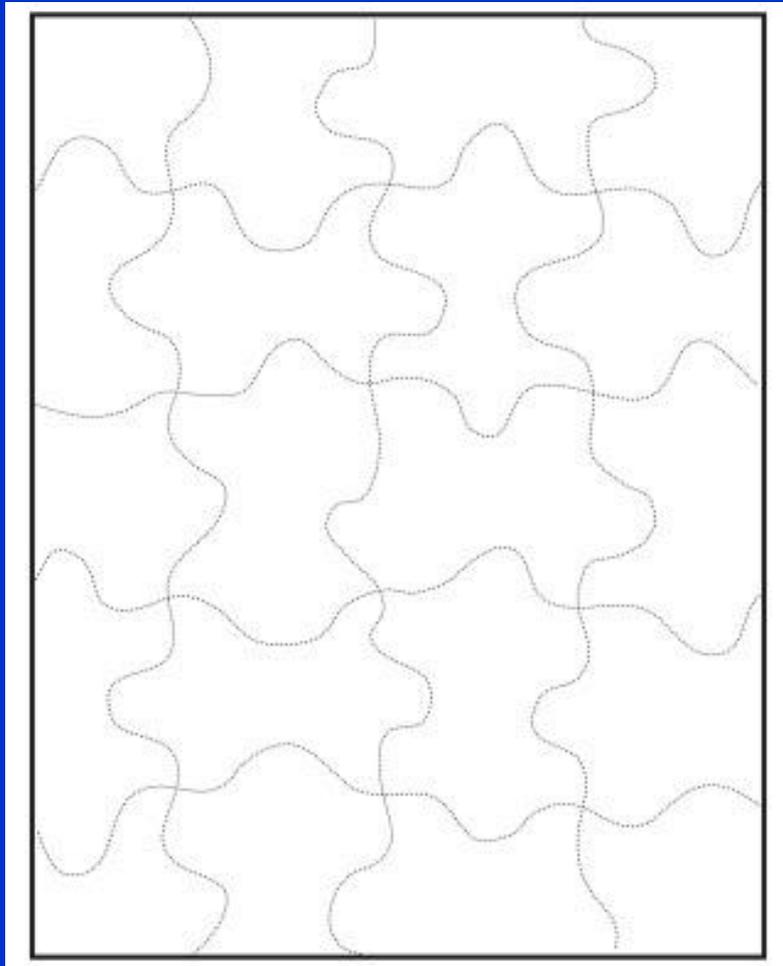
(Was formerly required; no longer is)

May be used to record any suspect documentary proof of age

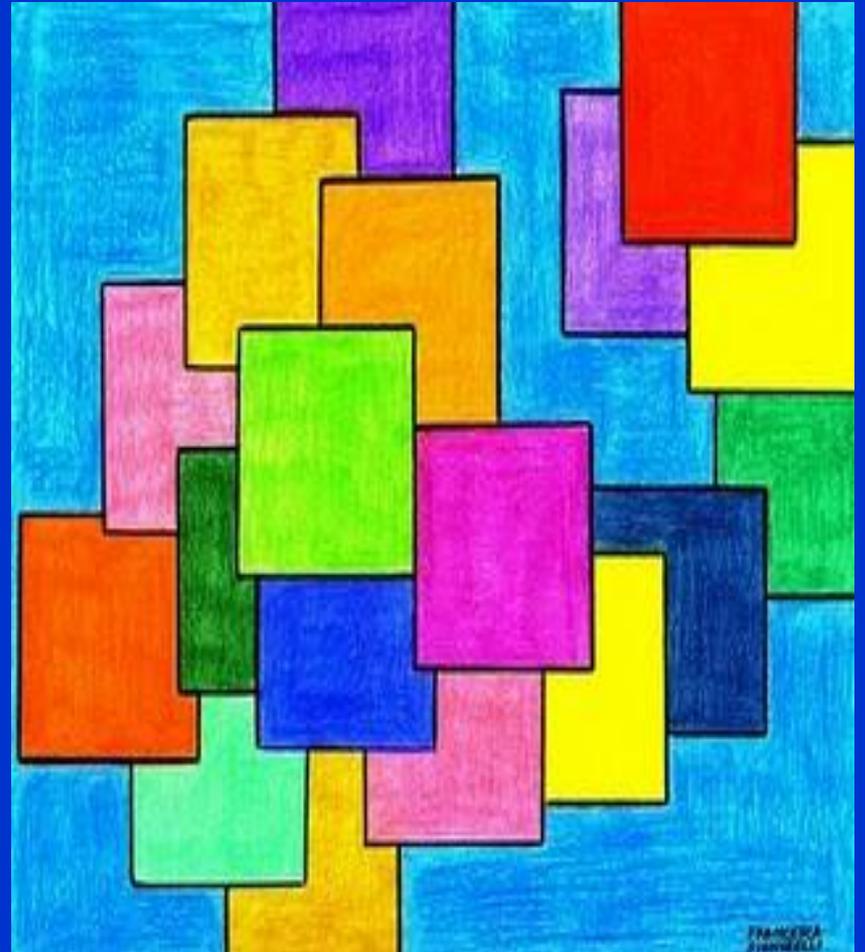
May be used to document any person alleging to be a parent, spouse or guardian of an underage person

IS NOT INTENDED AS A SUBSTITUTE FOR PROOF OF AGE!

Wisconsin Statutes Provide



Municipality Creates



Contact Information

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