



ENGROSSED 2019 ASSEMBLY BILL 869

February 27, 2020 - Printed by direction of SENATE CHIEF CLERK.

1 **AN ACT** *to renumber and amend* 125.12 (5); *to amend* 125.29 (3) (j), 125.295
2 (1) (i), 125.32 (3) (c), 125.68 (4) (c) 4. and 346.657 (1); and *to create* 125.06 (14),
3 125.07 (3) (a) 17., 125.12 (5) (b), 125.26 (2v), 125.27 (5), 125.32 (3m) (k), 125.51
4 (3) (bv) and 125.51 (5) (f) of the statutes; **relating to:** the issuance by the
5 Department of Revenue of retail alcohol beverage permits for motor vehicle
6 racetrack grounds; authorizing caterers to make retail sales of alcohol
7 beverages on racetrack grounds; sales of alcohol beverages at the state fair
8 park; closing hours for certain alcohol beverage retailers; and the safe ride
9 program surcharge.

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of Engrossed 2019 Assembly Bill 869, as passed by the assembly on February 20, 2020, consists of the following documents adopted in the assembly on February 20, 2020: the bill as affected by Assembly Amendments 1 and 3. The text also includes the February 28, 2020, chief clerk's corrections to Assembly Amendments 1 and 3.

ENGROSSED ASSEMBLY BILL 869***Content of Engrossed 2019 Assembly Bill 869:***

This bill authorizes the Department of Revenue to issue retail alcohol beverage permits for motor vehicle racetrack grounds and authorizes caterers to make retail sales of alcohol beverages on racetrack grounds. The bill creates a licensing exception allowing retail sales of alcohol beverages at the state fair park and creates an exception allowing southeast Wisconsin municipalities to authorize extended closing hours for certain alcohol beverage retailers during the time that the 2020 Democratic National Convention is held in Milwaukee. The bill also increases the amount of the safe ride program surcharge.

New retail permit issued by DOR

Under current law, with limited exceptions, no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. Municipalities may issue retail Class “B” licenses authorizing the sale of fermented malt beverages (beer), and retail “Class B” licenses authorizing the sale of intoxicating liquor, which includes wine and distilled spirits, to consumers. Under certain circumstances, DOR may issue retail Class “B” and “Class B” permits authorizing the retail sale of beer and intoxicating liquor to consumers.

This bill also authorizes DOR to issue retail Class “B” and “Class B” permits for racetrack grounds. The bill defines “racetrack grounds” as property consisting of at least 300 acres containing a motor vehicle racetrack at least four miles in length capable of hosting professional racing events, and includes any building or other structure on this property associated with the racetrack or with services provided in connection with events held at the racetrack. Under the bill, DOR may issue Class “B” and “Class B” permits, for locations within racetrack grounds, to the owner or operator of the racetrack grounds or to any person designated by the owner or operator of the racetrack grounds to operate premises located within the racetrack grounds. Class “B” and “Class B” permits issued by DOR for racetrack grounds authorize the retail sale of beer and intoxicating liquor at the location within the racetrack grounds specified in the permit, for possession and consumption anywhere within the racetrack grounds. Class “B” and “Class B” permits do not authorize the sale of beer and intoxicating liquor for consumption away from the racetrack grounds and do not authorize the sale of beer and intoxicating liquor at any designated camping area on racetrack grounds while the area is in use for camping. The bill contains an exception allowing underage persons to be present on those locations at racetrack grounds for which Class “B” or “Class B” permits are issued.

Retail sales by caterers off licensed premises

Current law generally requires a retail licensee to make retail sales of alcohol beverages only in a face-to-face transaction on the retail licensed premises, although the retail licensee may thereafter deliver and serve the alcohol beverages at another location. An exception allows a caterer to make retail sales off its licensed premises during a special event held at the National Railroad Museum in Green Bay or at the Heritage Hill State Park, if no retail license has been issued for this museum or park. A “caterer” is defined as a person who holds a restaurant license and who is in the business of preparing food and transporting it for consumption at gatherings, meetings, or events if the sale of food at each gathering, meeting, or event

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accounts for greater than 50 percent of the gross receipts of all of the food and beverages served at the gathering, meeting, or event.

This bill allows a caterer to make retail sales of alcohol beverages off its licensed premises on racetrack grounds, except at a designated camping area while the area is in use for camping and except on premises for which DOR has issued a retail permit for the racetrack grounds.

Retail license exception for state fair park

The bill creates a licensing exception under which a person who meets certain qualifications and is approved by the State Fair Park Board may, without a retail license or permit, make retail sales of alcohol beverages at the state fair park for consumption at the state fair park. The same approval is required for a brewer or brewpub that makes retail sales at the state fair park.

Closing hours for certain retailers

Under current law, a Class “B” license authorizes the retail sale of beer for consumption on or off the premises. Except when issued to a winery, a “Class B” license authorizes the retail sale of intoxicating liquor for consumption on the licensed premises and, subject to restrictions, the retail sale of intoxicating liquor in original packages for consumption off the licensed premises. Class “B” and “Class B” licenses are often issued together for restaurants and taverns. A “Class C” license, which may be issued only for a restaurant, authorizes the retail sale of wine for consumption on the premises. A retailer operating under a Class “B,” “Class B,” or “Class C” license may not remain open between the hours of 2 a.m. and 6 a.m. on weekdays or between 2:30 a.m. and 6 a.m. on Saturday and Sunday, and a municipality may not impose different closing hours by ordinance. However, there is no closing hour on January 1 for Class “B” and “Class B” licensed retailers. The hours during which a Class “B” or “Class B” licensed retailer may make sales for off-premises consumption are more limited, with these sales prohibited from midnight to 6 a.m., although a municipality may, by ordinance, impose more restrictive hours for these sales.

This bill creates a closing hour exception that may be available for Class “B,” “Class B,” and “Class C” licensees operating in a municipality any part of which is located within Kenosha, Racine, Walworth, Rock, Milwaukee, Waukesha, Jefferson, Dane, Ozaukee, Washington, Dodge, Columbia, Sheboygan, or Fond du Lac County (southeast Wisconsin municipality). Under the bill, from July 13 to July 17, 2020, the closing hour for a Class “B,” “Class B,” or “Class C” licensed premises in a southeast Wisconsin municipality is 4 a.m. if the municipality issuing the license has adopted a resolution allowing extended closing hours and, upon application by a licensee, has authorized the extended closing hour for that licensee. This bill does not affect the hours during which a Class “B” or “Class B” licensee may make sales for off-premises consumption.

Safe ride program surcharge

Current law imposes a safe ride program surcharge of \$50 upon a person convicted of operating a vehicle while under the influence of an intoxicant, with a detectable amount of a restricted controlled substance in one’s blood, or with a

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prohibited alcohol concentration. This bill increases the amount of the safe ride program surcharge to \$75.

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

1 **SECTION 1c.** 125.06 (14) of the statutes is created to read:

2 **125.06 (14)** ALCOHOL BEVERAGE SALES AT STATE FAIR PARK. The retail sale of
3 alcohol beverages at the state fair park, by any person approved by the state fair park
4 board by resolution to make such sales, for consumption at the state fair park. The
5 state fair park board may not grant to a person approval under this subsection unless
6 the person meets the qualifications under s. 125.04 (5) (a) 1., 3., 4., and 5., (b), and
7 (c).

8 **SECTION 1e.** 125.07 (3) (a) 17. of the statutes is created to read:

9 **125.07 (3)** (a) 17. Premises for which a Class “B” permit is issued under s.
10 125.27 (5) or a “Class B” permit is issued under s. 125.51 (5) (f).

11 **SECTION 2.** 125.12 (5) of the statutes is renumbered 125.12 (5) (a) and amended
12 to read:

13 **125.12 (5)** (a) The department may, after notice and an opportunity for hearing,
14 revoke, suspend, or refuse to renew any retail permit issued by it for the causes
15 provided in sub. (4) and any other permit issued by it under this chapter for any
16 violation of this chapter or ch. 139, except that, for ~~a violation of sub. (4) (ag) 6. with~~
17 ~~respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or~~
18 139.035, the department shall revoke the license ~~or~~ permit.

19 (c) A revocation, suspension, or refusal to renew a permit under par. (a) or (b)
20 is a contested case under ch. 227.

21 **SECTION 3.** 125.12 (5) (b) of the statutes is created to read:

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1 125.12 (5) (b) The department may, after notice and an opportunity for hearing,
2 revoke any permit issued under s. 125.27 (5) or 125.51 (5) (f) to a person designated
3 by the owner or operator of racetrack grounds as provided in s. 125.27 (5) (b) or 125.51
4 (5) (f) 2. if the person's designation has terminated or the owner or operator of the
5 racetrack grounds has otherwise rescinded the person's designation.

6 **SECTION 5.** 125.26 (2v) of the statutes is created to read:

7 125.26 (2v) (a) Subject to pars. (b) and (c), and notwithstanding ss. 125.04 (3)
8 (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization specified
9 in sub. (1), a Class "B" license issued under this section to a caterer also authorizes
10 the caterer to provide fermented malt beverages, including their retail sale, on
11 racetrack grounds, as defined in s. 125.27 (5) (a). Subject to pars. (b) and (c), and
12 notwithstanding sub. (1) and s. 125.32 (6) (a), a caterer may provide fermented malt
13 beverages under this paragraph at any location on racetrack grounds even though
14 the racetrack grounds are not part of the caterer's licensed premises, as described
15 under sub. (3) in the caterer's Class "B" license, and even if the racetracks grounds
16 are not located within the municipality that issued the caterer's Class "B" license.
17 A caterer that provides fermented malt beverages under this paragraph is subject
18 to s. 125.32 (2) and (3) as if the fermented malt beverages were provided on the
19 caterer's Class "B" licensed premises.

20 (b) A caterer may not provide fermented malt beverages under par. (a) at any
21 designated camping area on racetrack grounds while the area is in use for camping.

22 (c) A caterer may not provide fermented malt beverages under par. (a) on any
23 premises covered by a permit issued under s. 125.27 (5) or 125.51 (5) (f).

24 **SECTION 7.** 125.27 (5) of the statutes is created to read:

ENGROSSED ASSEMBLY BILL 869**SECTION 7**

1 125.27 (5) PERMITS FOR RACETRACK GROUNDS. (a) In this subsection, “racetrack
2 grounds” means real property consisting of at least 300 acres containing a motor
3 vehicle racetrack at least 4 miles in length capable of hosting professional racing
4 events, and includes any building or other structure on this property associated with
5 the racetrack or with services provided in connection with events held at the
6 racetrack.

7 (b) The department may issue Class “B” permits for locations within racetrack
8 grounds to any person that holds a valid certificate issued under s. 73.03 (50), that
9 is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the
10 racetrack grounds or is designated by the owner or operator of the racetrack grounds
11 to operate premises located within the racetrack grounds. Subject to par. (e), the
12 permit authorizes the retail sale of fermented malt beverages on the premises
13 covered by the permit, for consumption anywhere within the racetrack grounds. If
14 the department issues more than one permit under this subsection for the same
15 racetrack grounds, no part of the premises covered by a permit under this subsection
16 may overlap with premises covered by any other permit issued under this subsection.

17 (c) Persons holding a permit under par. (b) may sell beverages containing less
18 than 0.5 percent of alcohol by volume without obtaining a license under s. 66.0433.

19 (d) Subject to ss. 125.07 (3) (a) 17. and 125.32 (3) (c) and (3m) (k), all provisions
20 of this chapter applying to Class “B” licenses apply to Class “B” permits issued under
21 this subsection, except as follows:

22 1. A permit issued under this subsection does not authorize retail sales of
23 fermented malt beverages for consumption off the racetrack grounds.

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1 2. A permit issued under this subsection authorizes the retail sale of fermented
2 malt beverages for possession and consumption off the premises where sold if the
3 possession and consumption occurs within the racetrack grounds.

4 (e) A permit issued under this subsection does not authorize retail sales of
5 fermented malt beverages at any designated camping area on racetrack grounds
6 while the area is in use for camping.

7 (f) The department shall establish a fee for a permit issued under this
8 subsection in the amount of 50 percent of the fee for a permit issued under sub. (1).

9 **SECTION 8g.** 125.29 (3) (j) of the statutes is amended to read:

10 125.29 (3) (j) The ownership, maintenance, or operation of places for the sale
11 of fermented malt beverages at the state fair park or on any county fairgrounds
12 located in this state. A brewer may not make retail sales of fermented malt beverages
13 at the state fair park unless the state fair park board has, by resolution, approved
14 the brewer to make such sales.

15 **SECTION 8m.** 125.295 (1) (i) of the statutes is amended to read:

16 125.295 (1) (i) Notwithstanding s. 125.33 (1), the ownership, maintenance, and
17 operation of places for the sale of fermented malt beverages at the state fair park or
18 on any county fairgrounds located in this state if the fermented malt beverages have
19 been manufactured by the brewpub. A brewpub may not make retail sales of
20 fermented malt beverages at the state fair park unless the state fair park board has,
21 by resolution, approved the brewpub to make such sales.

22 **SECTION 9.** 125.32 (3) (c) of the statutes is amended to read:

23 125.32 (3) (c) Hotels and restaurants the principal business of which is the
24 furnishing of food and lodging to patrons, bowling centers, movie theaters, painting
25 studios, indoor golf and baseball facilities, racetrack grounds, as defined in s. 125.27

ENGROSSED ASSEMBLY BILL 869**SECTION 9**

1 (5) (a), indoor horseshoe-pitching facilities, curling clubs, golf courses and golf
2 clubhouses may remain open for the conduct of their regular business but may not
3 sell fermented malt beverages during the hours specified in par. (a).

4 **SECTION 11.** 125.32 (3m) (k) of the statutes is created to read:

5 125.32 **(3m)** (k) Premises for which a Class “B” permit is issued under s. 125.27
6 (5).

7 **SECTION 12.** 125.51 (3) (bv) of the statutes is created to read:

8 125.51 **(3)** (bv) 1. Subject to subds. 2. and 3., and notwithstanding ss. 125.04
9 (3) (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization
10 specified in par. (a) or (b) and in sub. (1) (a), a “Class B” license issued under sub. (1)
11 to a caterer also authorizes the caterer to provide intoxicating liquor, including its
12 retail sale, on racetrack grounds, as defined in s. 125.27 (5) (a). Subject to subds. 2.
13 and 3., and notwithstanding pars. (a) and (b) and sub. (1) (a) and s. 125.32 (6) (a), a
14 caterer may provide intoxicating liquor under this subdivision at any location on
15 racetrack grounds even though the racetrack grounds are not part of the caterer’s
16 licensed premises, as described under par. (d) in the caterer’s “Class B” license, and
17 even if the racetrack grounds are not located within the municipality that issued the
18 caterer’s “Class B” license. A caterer that provides intoxicating liquor under this
19 subdivision is subject to s. 125.68 (2) and (4) as if the intoxicating liquor were
20 provided on the caterer’s “Class B” licensed premises.

21 2. A caterer may not provide intoxicating liquor under subd. 1. at any
22 designated camping area on racetrack grounds while the area is in use for camping.

23 3. A caterer may not provide intoxicating liquor under subd. 1. on any premises
24 covered by a permit issued under s. 125.27 (5) or 125.51 (5) (f).

25 **SECTION 18.** 125.51 (5) (f) of the statutes is created to read:

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1 125.51 (5) (f) *Permits for racetrack grounds.* 1. In this paragraph, “racetrack
2 grounds” has the meaning given in s. 125.27 (5) (a).

3 2. The department may issue “Class B” permits for locations within racetrack
4 grounds to any person that holds a valid certificate issued under s. 73.03 (50), that
5 is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the
6 racetrack grounds or is designated by the owner or operator of the racetrack grounds
7 to operate premises located within the racetrack grounds. Subject to subd. 4., the
8 permit authorizes the retail sale of intoxicating liquor, by the glass and not in the
9 original package or container, on the premises covered by the permit, for
10 consumption anywhere within the racetrack grounds. If the department issues more
11 than one permit under this paragraph for the same racetrack grounds, no part of the
12 premises covered by a permit under this paragraph may overlap with premises
13 covered by any other permit issued under this paragraph.

14 3. Subject to ss. 125.07 (3) (a) 17. and 125.68 (4) (c) 4., all provisions of this
15 chapter applying to “Class B” licenses apply to “Class B” permits issued under this
16 paragraph, except as follows:

17 a. A permit issued under this paragraph does not authorize retail sales of
18 intoxicating liquor for consumption off the racetrack grounds.

19 b. A permit issued under this paragraph authorizes the retail sale of
20 intoxicating liquor for possession and consumption off the premises where sold if the
21 possession and consumption occurs within the racetrack grounds.

22 4. A permit issued under this paragraph does not authorize retail sales of
23 intoxicating liquor at any designated camping area on racetrack grounds while the
24 area is in use for camping.

ENGROSSED ASSEMBLY BILL 869**SECTION 18**

1 5. The department shall establish a fee for a permit issued under this
2 paragraph in the amount of 50 percent of the fee for a permit issued under par. (a).

3 **SECTION 20.** 125.68 (4) (c) 4. of the statutes is amended to read:

4 125.68 (4) (c) 4. Hotels and restaurants the principal business of which is the
5 furnishing of food, drinks or lodging to patrons, bowling centers, movie theaters,
6 painting studios, racetrack grounds, as defined in s. 125.27 (5) (a), indoor
7 horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may
8 remain open for the conduct of their regular business but may not sell intoxicating
9 liquor during the closing hours under subd. 1. or, with respect to the sale of
10 intoxicating liquor authorized under s. 125.51 (3r) (a), under subd. 3.

11 **SECTION 21m.** 346.657 (1) of the statutes is amended to read:

12 346.657 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63
13 (1) or (5), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25,
14 or s. 940.09 where the offense involved the use of a vehicle, it shall impose a safe ride
15 program surcharge under ch. 814 in an amount of \$50 \$75 in addition to the fine or
16 forfeiture, plus costs, fees, and other surcharges imposed under ch. 814.

17 **SECTION 22. Nonstatutory provisions.**

18 (1) CLOSING HOURS EXCEPTION FOR CERTAIN ALCOHOL BEVERAGE RETAILERS DURING
19 THE DEMOCRATIC NATIONAL CONVENTION IN MILWAUKEE.

20 (a) In this subsection:

21 2. "Municipality" has the meaning given in s. 125.02 (11).

22 3. "Southeast Wisconsin municipality" means a municipality any part of which
23 is located within Kenosha, Racine, Walworth, Rock, Milwaukee, Waukesha,
24 Jefferson, Dane, Ozaukee, Washington, Dodge, Columbia, Sheboygan, or Fond du
25 Lac County.

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1 (b) 1. Notwithstanding s. 125.32 (3) (a), from July 13 to July 17, 2020, the
2 closing hours for premises operating under a Class “B” license issued by a southeast
3 Wisconsin municipality shall be between 4 a.m. and 6 a.m. if the municipality that
4 issued the license has adopted a resolution allowing extended closing hours within
5 the municipality and has authorized this extended closing hour as provided in subd.
6 2.

7 2. If a southeast Wisconsin municipality has adopted a resolution under subd.
8 1., the municipality shall establish a process to authorize, and may upon application
9 so authorize, the extended closing hour under subd. 1. for any Class “B” licensed
10 premises within the municipality.

11 (c) 1. Notwithstanding s. 125.68 (4) (c) 1. and 3m., from July 13 to July 17, 2020,
12 the closing hours for premises operating under a “Class B” or “Class C” license issued
13 by a southeast Wisconsin municipality shall be between 4 a.m. and 6 a.m. if the
14 municipality that issued the license has adopted a resolution allowing extended
15 closing hours within the municipality and has authorized this extended closing hour
16 as provided in subd. 2.

17 2. If a southeast Wisconsin municipality has adopted a resolution under subd.
18 1., the municipality shall establish a process to authorize, and may upon application
19 so authorize, the extended closing hour under subd. 1. for any “Class B” or “Class C”
20 licensed premises within the municipality.

21 **SECTION 23. Effective dates.** This act takes effect on the first day of the 3rd
22 month beginning publication, except as follows:

23 (3) The treatment of s. 125.06 (14) and SECTION 22 of this act take effect on the
24 day after publication.

25 (END)