

2019 - 2020 LEGISLATURE

# 2019 ASSEMBLY BILL 869

February 10, 2020 - Introduced by Representatives SWEARINGEN, KUGLITSCH,  
VORPAGEL, SCHRAA, LOUDENBECK, SUMMERFIELD, FIELDS, HAYWOOD and SINICKI.  
Referred to Committee on State Affairs.

1 **AN ACT** to *renumber and amend* 125.12 (5); to *amend* 125.27 (4), 125.32 (3)  
2 (c), 125.51 (5) (b) (title), 125.51 (5) (b) 4., 125.51 (5) (e), 125.68 (4) (c) 3m. and  
3 125.68 (4) (c) 4.; and to *create* 125.07 (3) (a) 17., 125.12 (5) (b), 125.20, 125.26  
4 (2v), 125.27 (5), 125.27 (6), 125.32 (3) (e), 125.32 (3m) (k), 125.51 (3) (bv), 125.51  
5 (5) (b) 1. f., 125.51 (5) (b) 2m., 125.51 (5) (f) and 125.68 (4) (d) of the statutes;  
6 **relating to:** creating a private event venue permit issued by the Department  
7 of Revenue; the issuance by the Department of Revenue of retail alcohol  
8 beverage permits for motor vehicle racetrack grounds and for the state fair  
9 park; authorizing caterers to make retail sales of alcohol beverages on  
10 racetrack grounds; closing hours for certain alcohol beverage retailers and  
11 wineries and hours for retail sales by brewers; and providing a penalty.

### *Analysis by the Legislative Reference Bureau*

This bill creates a private event venue permit issued by the Department of Revenue and generally prohibits the rental or lease of property for private events at which fermented malt beverages (beer) or intoxicating liquor, which includes wine and distilled spirits, is consumed without this permit. This bill also authorizes DOR

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to issue retail alcohol beverage permits for motor vehicle racetrack grounds and for the state fair park. This bill authorizes caterers to make retail sales of alcohol beverages on racetrack grounds. The bill further establishes hours during which brewers may not make retail sales of alcohol beverages and makes changes relating to the retail sales hours of wineries. This bill also creates an exception allowing municipalities to authorize extended closing hours for alcohol beverage retailers, wineries, and brewers during the time that the 2020 Democratic National Convention is held in Milwaukee.

### *Private event venue permits*

Under this bill, DOR may issue to property owners private event venue permits that authorize the permittee to rent or lease property for use as a venue for a private event at which beer or intoxicating liquor is consumed. A permit does not authorize the sale of any alcohol beverages, but the host of the event may possess and consume, and allow the possession and consumption by others, on the premises, of beer and intoxicating liquor purchased from a retailer rather than a wholesaler. Upon the conclusion of the event, the host may remove from the premises any remaining beer and intoxicating liquor that is in an unopened, original container. The premises

covered by the permit may not remain open during hours in which Class “B” and “Class B” retail licensed premises must be closed. Requirements applicable to Class “B” and “Class B” retail licensees and licensed premises otherwise apply to private event venue permittees and premises covered by these permits, including the requirements that operations on the premises are supervised by a licensed bartender and that unaccompanied underage persons not be allowed on the premises. An applicant for a private event venue permit must provide proof of liability insurance and a permit may not be issued for property covered by another alcohol beverages license or permit.

With exceptions, the bill prohibits a person from renting or leasing property to another for use as a venue for a private event at which beer or intoxicating liquor is consumed unless the person holds a private event venue permit and consumption of the beer or intoxicating liquor occurs on the premises covered by this permit. The bill provides exceptions to this prohibition for certain types of property, including property covered by an alcohol beverages license or permit; hotel rooms and vacation rental property; property used primarily for parking; certain property used in connection with professional football or baseball games or amateur sporting events; and property used by a nonprofit organization.

### ***New retail permits 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 beer, and retail “Class B” licenses authorizing the sale of intoxicating liquor, 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

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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.

This bill allows DOR to issue Class “B” and “Class B” permits to vendors authorizing the retail sale of beer and intoxicating liquor at the state fair park if the State Fair Park Board has, by resolution, annually applied to DOR for the permit. Under the bill, a “vendor” is a person that has entered into a vendor agreement with the State Fair Park Board authorizing the person to sell alcohol beverages at the state fair park.

### ***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 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.

### ***Closing hours for certain retailers***

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. 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, which includes wine and distilled spirits, 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.

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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. Under the bill, from July 13 to July 17, 2020, the closing hour for a Class “B,” “Class B,” or “Class C” licensee is 4 a.m. if the municipality issuing the license authorizes, upon application, the extended closing hour. Alternatively, a municipality may, by ordinance, opt out and retain the regular, unextended closing hour for all licensees. This bill does not affect the hours during which a Class “B” or “Class B” licensee may make sales for off-premises consumption.

### ***Retail closing hours for wineries***

Current law allows a winery to hold a retail “Class B” license, but, unlike other “Class B” licenses, a winery’s “Class B” license authorizes only the sale of wine. A winery operating under a retail “Class B” license may not remain open for retail sales of wine between the hours of 9 p.m. and 8 a.m.

This bill changes the closing hour for wineries operating under a “Class B” license from 9 p.m. to midnight, but allows municipalities to establish, by ordinance, more restrictive closing hours for these wineries. From July 13 to July 17, 2020, a winery is eligible for extended closing hours to the same extent applicable for other “Class B” licensees within the same municipality.

### ***Brewer hours of sale***

Current law allows a brewer holding a brewer's permit to sell at retail, without a retail license, beer for consumption on or off the brewery premises or the brewer's off-site retail outlet. If the brewer held an intoxicating liquor license on June 1, 2011, the brewer may also sell at retail, without a retail license, intoxicating liquor for consumption on the brewery premises or the brewer's off-site retail outlet. Current law does not specify permissible hours of sale for these retail sales by a brewer.

This bill prohibits a brewer from making retail sales of beer and intoxicating liquor during hours in which a Class “B” or “Class B” licensed premises must be closed. As with a Class “B” or “Class B” licensee, a municipality may not impose more restrictive hours for retail sales for on-premises consumption but may impose more restrictive hours for retail sales for off-premises consumption. From July 13 to July 17, 2020, a brewer is eligible for the same extended closing hours applicable to Class “B,” “Class B,” and “Class C” licensees if the municipality has elected to extend closing hours for these retail licensees.

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Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2           125.07 (3) (a) 17. Premises for which a Class “B” permit is issued under s.  
3 125.27 (5) or a “Class B” permit is issued under s. 125.51 (5) (f).

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

6           125.12 (5) (a) The department may, after notice and an opportunity for hearing,  
7 revoke, suspend, or refuse to renew any retail permit issued by it for the causes  
8 provided in sub. (4) and any other permit issued by it under this chapter for any  
9 violation of this chapter or ch. 139, except that, for a violation of sub. (4) (ag) 6. with  
10 respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or  
11 139.035, the department shall revoke the license or permit.

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

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

15           125.12 (5) (b) The department may, after notice and an opportunity for hearing,  
16 revoke any permit issued under s. 125.27 (5) or 125.51 (5) (f) to a person designated  
17 by the owner or operator of racetrack grounds as provided in s. 125.27 (5) (b) or 125.51  
18 (5) (f) 2. if the person's designation has terminated or the owner or operator of the  
19 racetrack grounds has otherwise rescinded the person's designation.

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1           SECTION 4. 125.20 of the statutes is created to read:

2           **125.20 Private event venue permit; prohibition. (1) PERMIT ISSUANCE.** (a)

3           The department may issue to property owners private event venue permits that  
4 authorize the permittee to rent or lease real property for use as a venue for a private  
5 event at which fermented malt beverages or intoxicating liquor is consumed.

6           (b) A private event venue permit may be issued only to a person who holds a  
7 valid certificate issued under s. 73.03 (50) and is qualified under s. 125.04 (5), except  
8 a person acting as an agent for or in the employ of another.

9           (c) A private event venue permit may not be issued to a person unless the person  
10 has provided to the department proof of liability insurance covering the premises for  
11 which the permit is issued.

12           (d) A permit may not be issued under this section for premises that are covered  
13 by any other license or permit under this chapter, but a caterer holding a Class “B”  
14 or “Class B” license may deliver fermented malt beverages or intoxicating liquor to  
15 premises described in a permit under this section and may provide services in  
16 conjunction with the delivery.

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(e) The annual fee for a permit issued under this section shall be \$750.

**(2) OPERATIONAL REQUIREMENTS.** All provisions of this chapter applying to Class “B” and “Class B” licenses and licensees apply to private event venue permits and permittees, except as follows:

(a) A permit issued under this section does not authorize the sale of any alcohol beverages.

(b) The host of an event held on premises covered by a permit issued under this section may possess and consume, and allow the possession and consumption by others, on the premises, of fermented malt beverages and intoxicating liquor

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1 purchased from a retail licensee or permittee rather than a wholesaler. Upon the  
2 conclusion of an event, the host may remove from the premises any remaining  
3 fermented malt beverages and intoxicating liquor that is in an unopened, original  
4 container.

5 (c) No premises for which a permit under this section is issued may remain open  
6 between the hours of 2 a.m. and 6 a.m. On January 1 premises operating under a  
7 permit under this section are not required to close. On Saturday and Sunday, no such  
8 premises may remain open between 2:30 a.m. and 6 a.m. except that, on the Sunday  
9 that daylight saving time begins as specified in s. 175.095 (2), no such premises may  
10 remain open between 3:30 a.m. and 6 a.m.

11 **(3) PROHIBITION.** (a) No person may rent or lease real property to another for  
12 use as a venue for a private event at which fermented malt beverages or intoxicating  
13 liquor is consumed unless the person holds a permit issued under this section and  
14 consumption of the fermented malt beverages or intoxicating liquor occurs on the  
15 premises covered by the permit.