



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-3003/1
ARG & MIM:cjs

2023 ASSEMBLY BILL 286

May 17, 2023 - Introduced by Representatives GREEN, BODDEN, KITCHENS, MAGNAFICI, RETTINGER and SAPIK, cosponsored by Senators STAFSHOLT and QUINN. Referred to Committee on State Affairs.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to renumber and amend** 125.32 (2) and 125.68 (2); and **to create** 103.66
2 (1) (c), 125.32 (2) (c) and 125.68 (2) (c) of the statutes; **relating to:** service of
3 alcohol beverages on retail licensed premises by underage persons.

Analysis by the Legislative Reference Bureau

This bill extends, under certain circumstances, the current law exception allowing a person under 21 years of age (underage person) to serve alcohol beverages on retail licensed premises.

Under current law, with specific 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 fermented malt beverages (beer) for consumption on or off the premises. A "Class B" license generally authorizes the retail sale of intoxicating liquor, which includes wine and distilled spirits, for consumption on the licensed premises and, subject to restrictions, off the licensed premises. Class "B" and "Class B" licenses are often issued together for restaurants or taverns. A "Class C" license, which may be issued only for a restaurant, authorizes the retail sale of wine for consumption on the premises.

Current law generally prohibits an underage person who is not accompanied by a parent, guardian, or spouse of legal drinking age from possessing or consuming alcohol beverages on retail licensed premises. However, an underage person who is at least 18 years of age and employed by a retail licensee may possess alcohol beverages in the course of employment, subject to the requirements below.

Current law imposes certain requirements relating to persons who are authorized to sell or serve alcohol beverages on retail licensed premises. Although

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a person is not required to hold an operator's license (commonly referred to as a "bartender's license") to provide alcohol beverages on retail licensed premises, a retail licensee may not be open for business unless the licensee, the designated agent of a corporate licensee, or a person who possesses an operator's license or manager's license is present and responsible for the acts of all persons providing alcohol beverages on the premises. A person must be at least 21 years of age to hold a retail license or manager's license or to be an agent of a corporate retail licensee. A person must be at least 18 years of age to hold an operator's license. Any other person who serves alcohol beverages on retail licensed premises must be at least 18 years of age and under the immediate supervision of the the retail licensee or its corporate agent or a person holding an operator's license or manager's license.

This bill allows an underage person who is not yet 18 years of age but who is at least 14 years of age to carry alcohol beverages, on Class "B," "Class B," and "Class C" licensed premises, from a person allowed to serve alcohol beverages under current law to a customer, except a customer seated at the bar, and serve the customer.

The bill also rectifies a statutory inconsistency by clarifying that a retail licensee's immediate family member who is at least 18 years of age is considered to hold an operator's license.

Under current law, the Department of Workforce Development sets minimum ages for hazardous employment for minors. This bill provides that, in fixing those minimum ages, DWD must permit the employment of a minor 14 years of age or over at a business to carry and serve alcohol beverages to customers as described above.

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

1 **SECTION 1.** 103.66 (1) (c) of the statutes is created to read:

2 103.66 (1) (c) Permit the employment of a minor 14 years of age or over at a
3 business to carry and serve alcohol beverages to customers as described in ss. 125.32
4 (2) (c) and 125.68 (2) (c).

5 **SECTION 2.** 125.32 (2) of the statutes is renumbered 125.32 (2) (a) and amended
6 to read:

7 125.32 (2) (a) Except as provided under sub. (3) (b) and ss. 125.07 (3) (a) 10. and
8 125.26 (6), no premises operated under a Class "A" or Class "B" license or permit may
9 be open for business unless there is upon the premises the licensee or permittee, the
10 agent named in the license or permit if the licensee or permittee is a corporation or

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1 limited liability company, or some person who has an operator's license and who is
2 responsible for the acts of all persons serving any fermented malt beverages to
3 customers. An operator's license issued in respect to a vessel under s. 125.27 (2) is
4 valid outside the municipality that issues it.

5 (d) For the purpose of this subsection, any person holding a manager's license
6 under s. 125.18 or any member of the licensee's or permittee's immediate family who
7 has attained the age of 18 shall be considered the holder of an operator's license.

8 (b) No person, ~~including a member of the licensee's or permittee's immediate~~
9 ~~family, other than the licensee, permittee, or agent~~ specified in par. (a) may serve
10 fermented malt beverages in any place operated under a Class "A" or Class "B"
11 license or permit unless ~~he or she has~~ any of the following applies:

12 1. The person holds an operator's license ~~or,~~

13 2. Except as provided in par. (c), the person is at least 18 years of age and is
14 under the immediate supervision of the licensee, permittee, or agent or a person
15 holding an operator's license, who is on the premises at the time of the service.

16 **SECTION 3.** 125.32 (2) (c) of the statutes is created to read:

17 125.32 (2) (c) A person who is at least 14 years of age may carry fermented malt
18 beverages, on Class "B" licensed premises, from a person described in par. (a) or (b)
19 to a customer on the premises, other than a customer seated at the bar, and serve the
20 fermented malt beverages to the customer.

21 **SECTION 4.** 125.68 (2) of the statutes is renumbered 125.68 (2) (a) and amended
22 to read:

23 125.68 (2) (a) Except as provided under ss. 125.07 (3) (a) 10. and 125.51 (10),
24 no premises operated under a "Class A" or "Class C" license or under a "Class B"
25 license or permit may be open for business, and no person who holds a

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1 manufacturer's or rectifier's permit may allow the sale or provision of taste samples
2 of intoxicating liquor on the manufacturing or rectifying premises as provided in s.
3 125.52 (1) (b) 2., unless there is upon the premises either the licensee or permittee,
4 the agent named in the license or permit if the licensee or permittee is a corporation
5 or limited liability company, or some person who has an operator's license and who
6 is responsible for the acts of all persons selling or serving any intoxicating liquor to
7 customers. An operator's license issued in respect to a vessel under s. 125.51 (5) (c)
8 is valid outside the municipality that issues it.

9 (d) For the purpose of this subsection, any person holding a manager's license
10 issued under s. 125.18 or any member of the licensee's or permittee's immediate
11 family who has attained the age of 18 shall be considered the holder of an operator's
12 license.

13 (b) No person, ~~including a member of the licensee's or permittee's immediate~~
14 ~~family,~~ other than the licensee, permittee, or agent specified in par. (a) may serve or
15 sell alcohol beverages in any place operated under a "Class A" or "Class C" license
16 or under a "Class B" license or permit unless ~~he or she has~~ any of the following
17 applies:

18 1. The person holds an operator's license ~~or.~~

19 2. Except as provided in par. (c), the person is at least 18 years of age and is
20 under the immediate supervision of the licensee, permittee, or agent or a person
21 holding an operator's license, who is on the premises at the time of the service.

22 **SECTION 5.** 125.68 (2) (c) of the statutes is created to read:

23 125.68 (2) (c) A person who is at least 14 years of age may carry intoxicating
24 liquor, on "Class B" or "Class C" licensed premises, from a person described in par.

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1 (a) or (b) to a customer on the premises, other than a customer seated at the bar, and
2 serve the intoxicating liquor to the customer.

3 (END)