

## Co-Sponsorship Memorandum

**TO:** All Legislators

**FROM:** Representatives Swearingen, Kuglitsch, Vorpapel, Schraa and Loudenbeck

**DATE:** February 5, 2020

**RE:** LRB-5495/1, relating to: the issuance by the DOR of retail alcohol beverage permits for motor vehicle racetrack grounds and state fair park; authorizing caterers to make retail sales of alcohol beverages on racetrack grounds; creating a private event venue permit issued by the DOR; the closing hours for licensed or permitted establishments and hours for retail sales by brewers; and providing a penalty.

**SHORT DEADLINE:** February 7, 2020 at 12:00 p.m.

LRB 5495/1 was drafted in collaboration with alcohol industry stakeholders to clarify some issues that pertain to Chapter 125. This legislation was drafted with the intent to address the issuance of alcohol beverage permits to Road America and for State Fair Park. In addition, the bill allows extended operating hours for licensed and permitted establishments in 14 counties from July 13<sup>th</sup> – 17<sup>th</sup>, 2020 for the Democratic National Convention. Further, this bill creates a new permit that allows private event venues to remain in operation.

- 1.) Authorizes DOR to issue retail alcohol beverage permits for the Road America racetrack grounds. 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.
- 2.) Authorizes DOR to issue alcohol beverage permits and provides an exemption that allows a caterer to make retail sales off its licensed premise during events held at State Fair Park.
- 3.) Creates a \$2000 biennial private event venue permit issued by the Department of Revenue and 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 without this permit. This bill does not obstruct private event venues, but rather lets them remain in operation as they are currently and only under the provisions of Chapter 125.
- 4.) Creates an exception allowing 14 municipalities in southeast Wisconsin to authorize extended closing hours for licensed or permitted establishments during the time that the 2020 Democratic National Convention is held in Milwaukee.

This bill has the support of the majority of alcohol industry stakeholders including the Wisconsin Restaurant Association, Tavern League of Wisconsin, the City of Milwaukee, Wine Institute, Wisconsin Beer Distributors, MillerCoors, Bowling Centers Association of Wisconsin

and the Wisconsin Hotel and Lodging Association. If you are interested in co-sponsoring LRB-5495, please contact Joe Mesec in Rep. Swearingen's office at [joe.mesec@legis.wi.gov](mailto:joe.mesec@legis.wi.gov) or at 237-9134.

### ***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 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. This bill also creates an exception allowing southeast Wisconsin municipalities to authorize extended closing hours for certain alcohol beverage retailers 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 a retail alcohol beverages license.

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 a retail alcohol beverages license; 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 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. 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. 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 as restaurants or taverns 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. Under the bill, from July 13 to July 17, 2020, the closing hour for such a restaurant or tavern is 4 a.m. if the southeast Wisconsin municipality issuing the license authorizes, upon application, the extended closing hour. Alternatively, a southeast Wisconsin 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.

#### ***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. If the brewer is located in a southeast Wisconsin municipality, from July 13 to July 17, 2020, the brewer is eligible for the same extended closing hours applicable to Class "B," "Class B," and "Class C" licensees if the southeast Wisconsin municipality has elected to extend closing hours for these retail licensees.

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.