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# **Budget Briefs**

from the  
Wisconsin Legislative Reference Bureau

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Budget Brief 01-7

October 2001

## **CHANGES IN ALCOHOL BEVERAGE LAWS**

The biennial state budget act (2001 Wisconsin Act 16), passed by the legislature and signed by Governor Scott McCallum on August 30, 2001, makes a number of changes in Wisconsin's alcohol beverage laws.

### **INTERSTATE WINE SHIPMENTS TO CONSUMERS**

Wisconsin requires non-Wisconsin manufacturers of alcohol-containing beverages to obtain out-of-state shippers' permits for shipments into this state, and liquor and wine may be shipped only to specified permit holders within the state. One exception to these provisions permits reciprocal agreements with other states to allow their wineries to ship a limited amount of wine directly to consumers of legal drinking age without requiring the out-of-state shippers' permits. Reciprocal agreements currently exist with Washington, Oregon, and California. A Wisconsin consumer may not receive a combined total of more than 9 liters of wine (usually equivalent to one case) by direct shipment from these wineries in one year.

Act 16 changed the shipping law to require that participating wineries obtain a Wisconsin business tax registration certificate and file the winery's home state license with the registration. It also requires the consumer to acknowledge receipt of a wine shipment by signing the carrier's delivery form. Each participating winery must file an annual report with the Department of Revenue, beginning January 31, 2003, and covering shipments in calendar year 2002. The report will include the identification, quantity, and price of all products shipped into Wisconsin under reciprocal agreements, as well as the name, address, and birthdate of each consumer who receives a shipment. A similar report is required for Wisconsin wineries that ship wine out-of-state under reciprocal agreements. The department is required to keep this report information confidential.

### **OWNERSHIP OF RESTAURANTS BY BREWERS**

State law currently permits brewers to maintain and operate one Class "B" establishment on brewery premises and a second one at another location owned by the brewer. In addition to these two establishments, a small brewer with annual production of less than 4,000 barrels may hold a Class "B" license for up to four restaurants where alcohol beverage sales are less than 50% of gross receipts and other brewers' beers are sold. If the small brewer sells its own beers at these restaurants, they must be purchased from a wholesaler that has no ownership interest in the brewery.

Act 16 provides that a brewer may possess or hold an indirect interest in a Class "B" license for up to 20 restaurants where the sale of alcohol beverages is less than 60% of gross receipts if none of the brewer's own beers are sold, and the brewer is not a small brewer holding the Class "B" license for restaurants described in the preceding paragraph.

### **GIFTS PROVIDED BY BREWERS OR WHOLESALERS TO RETAILERS**

With limited exceptions, brewers and wholesalers may not sell, lease, furnish, give, or lend money or anything of value to Class "B" licensees. Exceptions include business

entertainment and certain signs, clocks, and menu boards placed inside the premises. (The legal definition of “business entertainment” includes such items as tickets or free admission to athletic events, concerts, or similar activities; food and beverages; and local ground transportation in connection with those activities or with business meetings.) Although paper or cardboard signs inside the premises are completely exempt, the other exemptions carry a dollar limit. Act 16 increased the maximum permissible value of signs, clocks, and menu boards placed inside (from \$150 to \$2,500) and on business entertainment (from \$75 to \$500 per day, with a new limit of eight days in a calendar year). Act 16 added signs made from plastic, vinyl, or similar material to the category of items with no dollar limitation.

Act 16 allows brewers and wholesalers to purchase advertising for and to conduct national or regional contests and other promotions at Class “B” establishments that sell their products, provided that at least four licensees or permittees are identified and included in the advertising or promotion. Brewers that manufacture fewer than 30,000 barrels per year are allowed to purchase advertising or conduct a promotion provided the materials include the name of at least one licensee or permittee.

Large brewers producing 350,000 barrels or more per year were allowed to contribute money or other things of value to bonafide national or statewide trade associations that derive their income from membership dues of Class “B” licensees. Act 16 expands that to include all brewers, adds wholesalers as potential donors, and adds local trade associations as potential recipients.

The act prohibits Class “A” or Class “B” licensees from requiring brewers or wholesalers to furnish something of value (other than the products to be purchased) as a condition of purchase.

## **OTHER PROVISIONS**

**Wine Sampling.** Act 16 allows establishments holding “Class A” licenses (retail sellers of packaged goods) to offer free wine tastings provided that the events are limited to two 3-ounce samples per person per day and offered only between 10 a.m. and 6 p.m. The wine must have been purchased from a wholesaler, and a store may not provide samples to any underaged person, even if the person is accompanied by a parent, guardian, or spouse of legal drinking age. Municipalities may prohibit tastings.

**Operator’s License Training Courses.** Applicants for operator’s (“bartending”) licenses are required to complete a responsible beverage server training course offered by a technical college or a comparable course approved by the Department of Revenue or the Educational Approval Board. Act 16 expands the training courses to allow computer-based training and testing of applicants.

**Sale by Secured Third Party.** Current law exempts the good faith sale of beverages by secured third parties from license and permit requirements provided the sale is not intended to evade state alcohol laws. Act 16 adds the requirement that such a sale of fermented malt beverages must be made within 15 days after the secured party takes possession, unless that party can show good cause why the sale cannot be completed within the limit.

**Tax-free Liquor and Wine.** A person returning to Wisconsin from a foreign country may bring up to four liters of wine or liquor into the state tax-free, provided that he or she was in that country for at least 48 hours. Special provisions are made for members of the military. Beginning October 1, 2001, military personnel who were on duty or in training outside the United States are allowed to bring back 16 liters, an increase from their prior limit of six liters.