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CHANGES IN LIQUOR LICENSE LAWS

The biennial state budget act (1997 Wisconsin Act 27), passed by the legislature and signed by Governor Tommy Thompson on October 11, 1997, made various changes relating to regulation of the sale of alcohol-containing beverages.

I. RECALCULATION OF "CLASS B" QUOTAS; NEW FEES

The sale of alcohol-containing beverages in Wisconsin is subject to different kinds of licensing. Class "A" (beer) licenses and "Class A" (liquor) licenses are issued for the sale of beverages for consumption off the premises, Class "B" (beer) and "Class B" (liquor) licenses are for sale for on-premises consumption. A "Class C" license allows restaurants to sell wine for on-premises consumption.

Municipal governments have the authority to issue licenses, but the number of "Class B" liquor licenses is subject to a quota determined by a state formula. In general, the formula grants one license per 500 municipal population or fraction thereof, but, prior to the passage of Act 27, a municipality could have a higher number, depending on the licenses it had in force on August 27, 1939 (or at the time of incorporation if later). Act 27 changed the formula, eliminated roughly half of the unissued "Class B" licenses, and created a new type of license, a reserve "Class B" license for the remaining unissued licenses.

Unissued "Class B" Licenses Retired; Reserve "Class B" License Created. Effective December 1, 1997, the quota for "Class B" licenses is based on the number of licenses granted or issued as of that date. If a municipality has granted or issued all of its licenses, that number continues (subject to future population increases). If a municipality has granted or issued fewer "Class B" licenses than its pre-December 1997 quota, the new quota becomes that existing number plus any "reserve" licenses, as created by Act 27.

The new quota formula subtracts three from the number of authorized but unissued "Class B" licenses and permanently retires half of the remainder. The other half (rounded down to a whole number), plus three will be available for issuance as "reserve" "Class B" licenses. (If a municipality has three or fewer unissued "Class B" licenses, those become the reserve "Class B" licenses.)

A reserve license differs from the older "Class B" licenses in two ways. An unrestricted "Class B" license may be transferred to another person or location within the same municipality, but a reserve "Class B" license may not be transferred. Second, Act 27 requires

the municipality to impose an initial fee of at least \$10,000 to issue a “reserve” “Class B” license, a fee which does not apply to older “Class B” licenses. Act 27 provides an exemption from the \$10,000 minimum issuance fee to bona fide clubs or lodges that are incorporated and have been situated in the state for six years. The annual licensing fee of \$50 to \$500, as determined by the municipality, applies to both “Class B” and reserve “Class B” licenses except that the minimum fee does not apply to clubs and lodges.

Certain Large Establishments Exempted. Generally, a municipality may not issue a license that would cause it to exceed its quota, although numerous exceptions apply. Act 27 created two exceptions that would allow a municipality that has reached its quota to issue the older “Class B” license to: 1) a full-service restaurant with a seating capacity of 300 or more or 2) a hotel with 100 or more sleeping rooms that has either an attached restaurant with a seating capacity of at least 150 or a banquet room with capacity for at least 400 persons.

The legislature mandated that a “Class B” license issued to a large restaurant or hotel as an exception to the municipality’s quota must be revoked if the restaurant or hotel fails to qualify for the exception.

II. LICENSE SUSPENSION AND REVOCATION

State law grants municipalities and the Department of Revenue (DOR) the authority to suspend, revoke or refuse to renew a license or permit for specified violations. Act 27 prohibits them from taking such action on the basis of a first violation of state laws regarding sales to underage persons within a one-year period. Underage drinking violations may be considered for revocation, suspension or refusal of renewal only if the licensee has committed a second violation within one year of the previous violation. If the licensee commits two or more violations within one year, the municipality or DOR may consider all violations committed within one year of a previous violation.

Under existing law, a municipality or DOR may suspend or revoke a license on the basis of a resident’s complaint that a licensee has committed one or more specified violations. Act 27, as passed by the legislature, would have repealed two of these specified violations — complaints that a license holder either “keeps or maintains a disorderly or riotous, indecent or improper house” or “has sold or given away alcohol beverages to known habitual drunkards.” The governor, however, vetoed this language, thereby leaving the provisions intact.

III. FOR MORE INFORMATION

For copies of the changes to Sections 125.04, 125.12, 125.17 and 125.51, Wisconsin Statutes, contact the Legislative Reference Bureau at (608) 266-0342.