



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1465/1
ARG&KRP:wlj

2017 ASSEMBLY BILL 121

March 2, 2017 - Introduced by Representatives KOLSTE, ANDERSON, SARGENT, E. BROOKS, THIESFELDT, C. TAYLOR, POPE, SUBECK, FIELDS, BERCEAU, SPREITZER, CONSIDINE, BOWEN, SINICKI and WACHS, cosponsored by Senators CARPENTER and L. TAYLOR. Referred to Committee on State Affairs.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber* 125.68 (11) (a); *to renumber and amend* 125.02 (8) and
2 139.01 (3); *to amend* 125.68 (8) (a) 3. and 139.03 (2m); and *to create* 125.02
3 (8) (b), 125.68 (11) (a) 2m., 125.68 (14) and 139.01 (3) (b) of the statutes;
4 **relating to:** the manufacture, sale, and taxation of powdered alcohol.

Analysis by the Legislative Reference Bureau

This bill makes changes to treat powdered alcohol as an intoxicating liquor, which as currently defined includes beverages in the form of wine and distilled spirits.

Current law generally prohibits a person from manufacturing, distributing, or selling alcohol beverages, including intoxicating liquor, without the appropriate license or permit. Current law imposes numerous requirements related to the manufacture and sale of intoxicating liquor in this state. Current law also imposes an occupational tax on intoxicating liquor manufactured in or brought into this state.

This bill modifies the definition of “intoxicating liquor” to include, with limited exceptions, any substance that is sold in powder or crystalline form, that contains more than 0.4 percent alcohol by weight, and that is fit for human consumption either in its powder or crystalline form or after it is added to food or mixed with water or another liquid (powdered alcohol). As a result, under the bill, powdered alcohol may be sold to consumers only by licensed retailers, may be manufactured in this state only by persons holding a manufacturer’s permit issued by the Department of Revenue, may be distributed in this state only by persons holding a wholesaler’s permit issued by DOR, and may be shipped from another state into this state only

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by persons who are the product's primary source of supply and hold an out-of-state shipper's permit issued by DOR. The bill includes exceptions for powdered alcohol used for certain purposes, including powdered alcohol used by hospitals or for scientific research or other medicinal, pharmaceutical, industrial, or nonbeverage purposes.

The bill also imposes the same occupational tax on powdered alcohol that applies to other forms of intoxicating liquor. For powdered alcohol, this tax is calculated on the volume of the product that results after it has been mixed according to the package instructions.

For further information see the *state* 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.** 125.02 (8) of the statutes is renumbered 125.02 (8) (intro.) and
2 amended to read:

3 125.02 (8) (intro.) “Intoxicating liquor” means all any of the following:

4 (a) All ardent, spirituous, distilled or vinous liquors, liquids or compounds,
5 whether medicated, proprietary, patented or not, and by whatever name called,
6 containing 0.5 percent or more of alcohol by volume, which are beverages, but does
7 not include “fermented malt beverages”.

8 **SECTION 2.** 125.02 (8) (b) of the statutes is created to read:

9 125.02 (8) (b) Any substance that is sold in powder or crystalline form, that
10 contains more than 0.4 percent alcohol by weight, and that is fit for human
11 consumption either in its powder or crystalline form or after it is added to food or
12 mixed with water or another liquid, unless the substance is used as described in 27
13 CFR 1.60 to 1.62 or meets the criteria under s. 125.68 (11) (a).

14 **SECTION 3.** 125.68 (8) (a) 3. of the statutes is amended to read:

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1 125.68 (8) (a) 3. Possessing diluted intoxicating liquor, other than diluted
2 intoxicating liquor described in s. 125.02 (8) (b), or refilled original containers on any
3 premises covered by a “Class A” or “Class C” license or “Class B” license or permit.

4 **SECTION 4.** 125.68 (11) (a) of the statutes is renumbered 125.68 (11) (a) 1m.

5 **SECTION 5.** 125.68 (11) (a) 2m. of the statutes is created to read:

6 125.68 (11) (a) 2m. For purposes of this paragraph, the fact that a product is
7 sold in powder or crystalline form does not, by itself, render the product unfit for
8 beverage purposes if the product can readily be mixed with water or another liquid
9 to form a beverage.

10 **SECTION 6.** 125.68 (14) of the statutes is created to read:

11 125.68 (14) INTOXICATING LIQUOR IN THE FORM OF POWDERED ALCOHOL. With
12 respect to intoxicating liquor described in s. 125.02 (8) (b), all of the following apply:

13 (a) In any provision of this chapter referring to the volume of this intoxicating
14 liquor, the applicable volume shall be the volume resulting after mixing the
15 intoxicating liquor described in s. 125.02 (8) (b) according to the package
16 instructions.

17 (b) In any provision of this chapter authorizing a licensee or permittee to sell
18 intoxicating liquor by the glass or authorizing consumption of intoxicating liquor on
19 the premises where sold, the licensee or permittee shall prepare the intoxicating
20 liquor described in s. 125.02 (8) (b) according to the package instructions before
21 serving it to the customer.

22 **SECTION 7.** 139.01 (3) of the statutes is renumbered 139.01 (3) (intro.) and
23 amended to read:

24 139.01 (3) (intro.) “Intoxicating liquors” includes all of the following:

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1 (a) All ardent, spirituous, distilled or vinous liquors, liquids, or compounds,
2 whether medicated, proprietary, patented, or not, and by whatever name called,
3 containing one-half of one percent or more of alcohol by volume, which are fit for use
4 for beverage purposes, but does not include fermented malt beverages, as defined in
5 s. 125.02.

6 **SECTION 8.** 139.01 (3) (b) of the statutes is created to read:

7 139.01 **(3)** (b) Any substance that is sold in powder or crystalline form, that
8 contains more than 0.4 percent alcohol by weight, and that is fit for human
9 consumption either in its powder or crystalline form or after it is added to food or
10 mixed with water or another liquid, unless the substance is used as described in 27
11 CFR 1.60 to 1.62 or meets the criteria under s. 125.68 (11) (a).

12 **SECTION 9.** 139.03 (2m) of the statutes is amended to read:

13 139.03 **(2m)** The rate of that tax is 85.86 cents per liter on intoxicating liquor,
14 except wine containing not in excess of 21 percent of alcohol by volume, containing
15 0.5 percent or more of alcohol by volume. The department of revenue may, by rule,
16 set the amount of the taxes imposed under this section for various sizes of containers
17 if the amounts set are in the same proportion to the size of the containers as the rate
18 per liter under this subsection. With respect to intoxicating liquor described in s.
19 139.01 (3) (b), the volume of the intoxicating liquor shall be the volume resulting after
20 mixing the intoxicating liquor according to the package instructions.

21 **SECTION 10. Effective date.**

22 (1) This act takes effect on first day of the 3rd month beginning after
23 publication.

24

(END)