

Misc Laws on Donations/Giving/Sale of Alcohol Beverages

125.02(20) – defines “sale” – transfer with consideration or transfer without consideration if made to evade law, or any shift, device, scheme, etc. - includes solicitation for future delivery.

125.04(1) – NO PERSON (person includes individuals, assns, corporations, LLC’s, etc) may sell or engage in any other activity for which this chapter provides a license w/o holding the appropriate license.

125.04(3), (5) – License application must be filed with clerk, published in paper (public notice), public hearing, board approves/denies; licensees have to meet certain statutory requirements.

125.06(10) – no license required for raffles of alcohol if organization has raffle permit – Ch. 563. Also, s. 125.06(11) provides no license is required for sale of (sealed) alcohol at an auction by a charitable organization to raise money for the charitable organization.

125.06(13) – “Class A” (off-sale liquor) licensee may provide two 3 fl oz samples of wine to persons of legal drinking age between hours of 11AM and 7PM on the “Class A” premises; “Class A” licensee must purchase this wine from a wholesaler.

125.09(1) – prohibits “consumption” of alcohol in unlicensed public places – i.e., businesses that do business with public (jewelry stores, hair salons, etc.)

125.315 prohibits the “giving” of fermented malt beverages to evade law (i.e., business – credit union, barbershop, jewelry

store, etc. gives away beer to customers without a fermented malt beverage license)

125.32(6) – retailers may only purchase and possess alcohol from licensed wholesalers and no person may possess any alcohol beverages on the premises except those authorized by law for sale on the premises (i.e., I can't bring a bottle of wine onto a licensed premises).

125.51(6) – retail sales may only take place face-to-face at the licensed premises, with buyer and seller both physically present at time of sale; wineries that also possess a Direct Wine Shippers' permit (125.535) may solicit orders away from premises to be fulfilled later.

125.66 – sale without license – penalty up to \$10,000/9 months or both.

125.67 – “giving away” (of wine/spirits) or using other means to evade law prohibited (example – commercial transaction, as listed above in 125.315); same penalty as 125.66.

125.68(2m) – no licensee may allow another to use his/her license to sell alcohol beverages (example: I can't let someone drive my car using my driver's license; those privileges are given to me and I can't assign them to someone else) See retail application form where it **BOLDLY** states – “rights and responsibilities ...will not be assigned to another”). Agreements between private parties are not binding on municipality; allowing another to use one's alcohol license is grounds for **REVOCAION** of the license.

125.69(3) – wholesalers must charge same price to all retailers purchasing alcohol in similar quantities (wholesaler can't discount

wine to charitable license holder and then charge other licensees a different price).

125.69(4) – retailers must only obtain alcohol by bona fide sale from licensed Wisconsin wholesalers; “gift” is not bona fide sale. The law also prohibits “consignment” sales – i.e., product sold and delivered to a retailer becomes the property of the retailer and unused product may not be returned to the wholesaler (unless unfit for sale, such as spoiled goods, etc). However, a liquor salesperson may give a “Class A” licensee a sample of a brand of liquor (wine) if the retailer has not previously purchased that brand from the permittee – s. 125.65(1).

125.69(6) – retailers must only purchase/possess alcohol from licensed wholesalers. If a retail licensee, can’t get product from another retailer.

125.70; 125.33(2)(o) – manufacturers, rectifiers, brewers and wholesalers may provide, free of charge, taste samples at Class B premises to persons of legal drinking age who are attending the trade show of a bona fide national or statewide trade association that derives income from membership dues of Class B licensees; any product brought to the premises under this provision must be removed at the close of the trade show.

Statutes regulating the use and sale of alcohol beverages are intended to regulate and restrain or restrict, but not to encourage or promote, the sale of liquor. They should be construed liberally in order to effectuate their purpose (48 CJS Intoxicating Liquor, Sec. 191). These are “temperance” laws, designed to provide for orderly sale and consumption of alcohol beverages; they are written for the benefit of the state’s citizens and for the benefit of the public health and welfare.

Liability – QUESTION TO ASK: Do non-licensed entities/businesses (i.e., charities, jewelry stores, hair salons, etc., etc.) who traffic in alcohol ask their insurance companies about the potential liabilities they may incur through their trafficking in these products, and what protection will their insurance provide in such instances?

Once licensed, the licensee must comply with ALL other state alcohol laws applicable to the license they hold – server training requirements, closing hour, underage on licensed premises, licensed operators (bartenders), purchase and invoice and inspection requirements, etc. with the privilege of serving alcohol also comes with it the RESPONSIBILITY of complying with state law and local ordinances. Failure to do so subjects them to criminal and civil penalties.

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