

DOR on Tap

An Alcohol Industry Update

November 2020 | AIU 006

In the February 2020 edition of *DOR on Tap*, we announced the retirement of Tom Ourada and stated that we would announce his replacement once we filled the position. I am excited to announce that we have hired Zachary (Zac) Dolan as our new Alcohol & Tobacco Specialist!

Zac previously worked in the Excise Tax Unit where his job duties included processing alcohol beverage permit applications, among other tasks. Zac brings a good understanding of alcohol beverage laws, permits, procedures, and more to his new role. We are excited for him to get started in his new position where he will provide education and assistance to municipal clerks, alcohol beverage stakeholders, and the general public.

We will communicate Zac's contact information in a future edition of *DOR on Tap*. In the meantime, questions may be sent to DORAlcoholTobaccoEnforcement@wisconsin.gov or use the "[Submit a Question](#)" link on the alcohol beverage landing page on the DOR website.

As fall approaches, each year we receive questions and complaints about seasonal businesses serving alcohol beverages to the public. Businesses such as pumpkin patches, apple orchards, haunted houses, corn mazes, Christmas tree farms, and retail stores explore the idea of providing alcohol beverages to customers to increase patronage during the holiday season. Sometimes this is advertised as a "free" giveaway to customers (e.g., men's night at a jewelry store and every shopper may enjoy a beer while they shop). Other times it is given in conjunction with a paid activity (e.g., "Purchase a hayride and get a free beer." or "Every Christmas tree purchase comes with a free shot of brandy."). Please be aware that Wisconsin law prohibits the consumption of alcohol beverages in places open to the public, regardless of whether the alcohol beverages are provided for free or sold, unless the business holds an appropriate retail alcohol beverage license for the premises.

Cheers,

Tyler Quam, Special Agent in Charge
A&TEU | Wisconsin Department of Revenue

Resources & News

[Wisconsin Department of Revenue Website](#)

[Wisconsin Department of Revenue Alcohol Beverage Landing Page](#)

[Operator's \(Bartender's\) License – Training](#)

[Federal TTB \(Alcohol and Tobacco Tax and Trade Bureau\)](#)

[Wisconsin Department of Agriculture, Trade and Consumer Protection](#)

[Wisconsin Department of Health Services](#)

[Wisconsin Department of Justice](#)

[League of Wisconsin Municipalities](#)

Clerks Corner: License Transfers

Can a retail license be transferred from one location to another?

Any alcohol beverage license may be transferred to another location within the same municipality, with approval of the municipal governing body, except as follows:

- Reserve "Class B" licenses cannot be transferred to another location within the same municipality
- A licensee is entitled to no more than one transfer during the license year
- A transferred license or permit from location to location is valid only until the expiration date of the license or permit

How does a person apply to have their license transferred to another location?

- The licensee must complete form [AT-112, Application for Transfer of Retail Licenses for Sale of Fermented Malt Beverages and/or Intoxicating Liquor From One Premises to Another](#), and file it with their municipal clerk
- The transfer is subject to the approval of the municipal governing body
- The transfer is complete only upon approval of the governing body, payment of the \$10 transfer fee, and issuance of a new license

Can a retail license be transferred to another person?

A retail license may be transferred to another person only in the following situations:

- A license may be transferred to a personal representative, surviving spouse, or to a trustee if the licensee dies, becomes bankrupt, or makes an assignment for the benefit of creditors
- If a licensee becomes disabled during the license year, the license may be transferred to his/her spouse at no charge, if that person qualifies for an alcohol beverage license
- A license may be transferred to the receiver in a foreclosure action, if so ordered by a court

How does a person apply to have their license transferred to another person?

- The applicant must complete [Form AT-108, Retail License Transfer - Person to Person](#), and file it with their municipal clerk

Revisions to Forms

Revisions to [Form AB-123, Distilled Spirits / Wine Permit Application](#)

The Wisconsin Distilled Spirits / Wine Permit Application Form has been revised / updated in several places.

- On page 5, the instructions have been updated to clarify that out-of-state wine direct shippers must appoint an agent if the entity is a corporation or a limited liability company.
- On page 6, the instructions have been updated under the "File Returns" bullet point. "Distilled spirits" has been changed to "liquor" to clarify that out-of-state shippers of both wine and distilled spirits must file monthly returns.
- On page 7, instructions have been added for how to report an agent change.

Appointment of Successor Agent

Two new forms have been created to replace Form AT-107a:

- [Form AT-200, Appointment of Successor Agent – Retail Licenses](#)

This form is for holders of retail licenses. The completed form and \$10 fee should be given to the municipality that issued the license.

- [Form AT-201, Appointment of Successor Agent – DOR Permits](#)

This form is for holders of permits issued by the Department of Revenue (DOR). The completed form should be submitted to DOR either by mail or electronically via My Tax Account.

Direct any questions about these forms to the Excise Tax Unit at 608 266-6701 or via email DORExciseTaxpayerAssistance@wisconsin.gov

Q & A – Special alcohol licenses or permits because of the pandemic

Because of the coronavirus pandemic there are strict capacity limitations placed on bars and restaurants. May the holder of a "Class A", "Class B", Class "B", or "Class C" retail liquor license choose to extend the premises where alcoholic beverages are served to customers?

Alcoholic beverages may only be sold and stored on the premises described on [Form AT-106](#), *Original Alcohol Beverage Retail License Application* and approved by the municipal governing body.

May I extend my licensed premises to include the parking lot or another area for a special event?

- Retail licenses issued by the municipality: contact the local clerk's office. Any changes to a retail license must be reported to the municipality as set forth in [sec. 125.04\(3\)\(h\), Wis. Stats.](#)
- Brewery Permit holders may extend their premises or add a secondary location. Contact the Excise Tax Unit at DORExciseTaxpayerAssistance@wisconsin.gov to obtain [Form BT-136](#), *Fermented Malt Beverages Permit Application*, for a permit extension or secondary location.

Can a municipality issue alcohol beverage retail licenses in excess of their quota during the coronavirus pandemic?

No. There have been no changes to the quota formulas provided under Wisconsin law ([Sec. 125.51\(4\), Wis. Stats.](#)).

Eau Claire County tavern owner convicted of alcohol beverage violations

Investigations in 2016 and 2017 by DOR's Alcohol & Tobacco Enforcement Unit recently resulted in convictions of an Eau Claire County tavern owner for purchasing alcohol beverages from a source other than wholesalers, and refilling intoxicating liquor bottles.

On August 4, 2020, Jeffrey L. Root, 67, pleaded no contest to one count of purchasing fermented malt beverages from a source other than a permitted wholesaler, one count of purchasing intoxicating liquor from a source other than a wholesaler, and one count of refilling intoxicating liquor bottles. Three additional counts of refilling intoxicating liquor bottles were dismissed but read into the record.

In September 2016, Alcohol & Tobacco Enforcement Special Agents completed an investigation of Dana's Sports Bar & Grill in Eau Claire County, after receiving a complaint about violations at the business. During the investigation, agents found numerous alcohol beverage violations, including purchasing alcohol beverages from other retailers rather than wholesalers, and refilling intoxicating liquor bottles. Root, owner of the tavern, said he was purchasing liquor and beer from other retailers because "it is cheaper." Root also admitted to refilling empty or partially empty liquor bottles when agents uncovered a funnel beside several 1.75-liter bottles.

Special agents confiscated 15 cases of beer, 94 bottles of intoxicating liquor and 43 retail receipts showing purchases of liquor and beer from other retailers during this investigation.

Several months later, another complaint alleged that Root was continuing to purchase liquor and beer from other retailers, and refill liquor bottles.

During a May 2017 investigation of the business, agents again found evidence that Root was purchasing beer and liquor from other retailers, as well as refilling liquor bottles. Agents found several bottles of liquor that were purchased from other retailers hidden in a cooler in the basement of the tavern. Root again admitted to the agents that he engaged in the violations.

After pleading no contest to the aforementioned charges, Root was fined \$1,150.00 and ordered to pay that amount in addition to other court costs.

This case was investigated by special agents of the Alcohol & Tobacco Enforcement Unit and was prosecuted by the Eau Claire County District Attorney's Office.

Basics for Brewers

What does my brewer's permit allow me to do?

A brewer's permit authorizes the following activities (a complete list of authorized activities is in sec. 125.29(3), Wis. Stats.):

- Manufacturing, bottling, packaging, possessing, and storing fermented malt beverages on the brewery premises
- Selling, shipping, transporting, and delivering, in original unopened packages or containers, to wholesalers, from the brewery premises, fermented malt beverages that have been manufactured by the brewer
- Making retail sales of fermented malt beverages that have been manufactured on the brewery premises or on other permitted premises of the brewer to individuals at the brewery premises or an off-site retail outlet established by the brewer
- Making retail sales of fermented malt beverages that have been manufactured on another Wisconsin brewery premises if the fermented malt beverages are purchased by the brewer from a permitted fermented malt beverage wholesaler, or directly from the manufacturing brewer, if that brewer manufactures 300,000 or less barrels of beer in a calendar year
- Providing free taste samples of fermented malt beverages on the brewery premises, at an off-site retail outlet established by the brewer, or at a Class "A" beer licensee if the fermented malt beverages were purchased by the brewer from the Class "A" beer licensee
- Operating a restaurant at the brewery premises and at an off-site retail outlet established by the brewer

Does my brewer's permit allow me to make sales to licensed retailers (self-distribution)?

A brewer may sell, ship, transport and deliver fermented malt beverages directly from the brewery premises to retailers if all of the following apply:

- The brewer manufactures 300,000 or less barrels of fermented malt beverages in a calendar year from all locations
- Fermented malt beverages are in original, unopened packages or containers
- Fermented malt beverages were manufactured on the brewery premises
- The brewer complies with applicable requirements for fermented malt beverage wholesalers
- The brewer does not sell a brand of fermented malt beverage to retailers in a location where the brewer has granted distribution rights to a fermented malt beverage wholesaler for that brand

What interest restrictions exist for brewers?

A brewer cannot hold a Class "A" beer license, a Class "B" beer license or permit, or a wholesaler's permit. In addition, a brewer may not provide anything of value to any campus or Class "B" beer licensee or permittee, unless an exception applies. Additional brewer's permit restrictions and exceptions can be found in secs. 125.28, 125.29, 125.33, Wis. Stats., and in sec. Tax 7.23, Wis. Adm. Code.

Contact Us

Phone: (715) 842-2343 | Email: DORAlcoholTobaccoEnforcement@wisconsin.gov | [Follow us on Twitter](#)

Alcohol Beverages

The volume of alcohol beverages consumed in FY20 was a little over 166 thousand gallons. Beer accounted for 82% of the volume consumed, liquor (spirits) and wine each accounted for about 9% of the volume. While the share of beer consumption by volume was 82%, its share of revenue was only 13%. On the other hand, liquor which accounted for 9% of the volume consumed represents an 80% share of the revenue. Wine rounds off the remaining 7%.

FY20 alcohol beverage revenues was about \$62 million. Liquor and wine increased by 2% and 5% respectively over FY19 revenues while beer revenues declined by 4.6% during the same period.

Live data visualizations on alcohol beverages can be found at <https://www.revenue.wi.gov/Pages/RA/AlcoholBeverage.aspx>

Graph: Volume Consumed & Associated Excise Tax

Graph: Revenue

Map: Alcohol Beverage Excise Tax Rates by State (\$/Gal.)

Table: Taxable Gallons

Table: Excise Tax Revenues

Notes

Beverage Type

(All)

Beverage Type

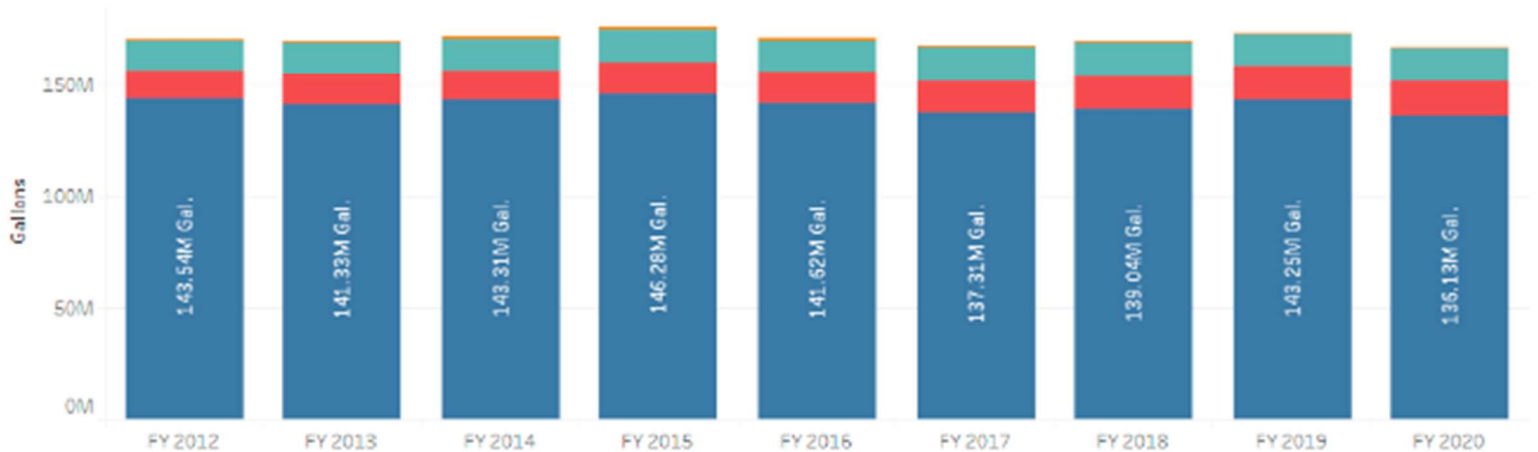
Cider

Wine

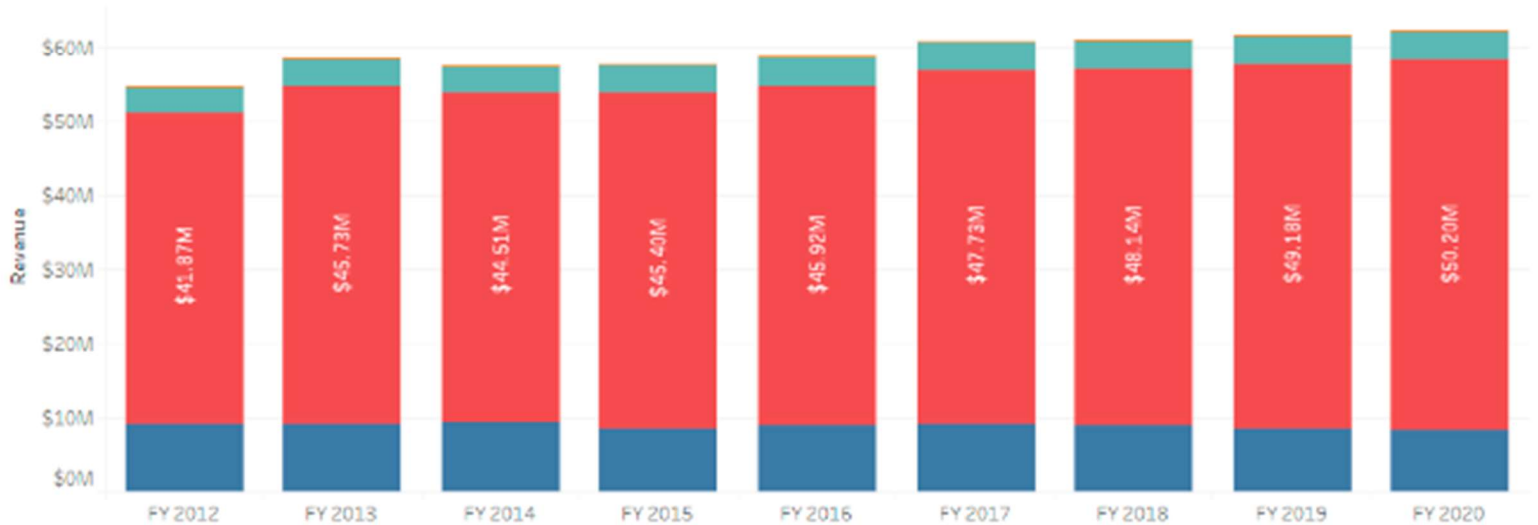
Liquor

Beer

Graph: Taxable Gallons



Graph: Revenues



Applicable Laws and Rules

This document provides statements or interpretations of Wisconsin statutes and administrative rules enacted as of November 20, 2020. Laws enacted and in effect after November 20, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to November 20, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.