

DOR on Tap

An Alcohol Industry Update

November 2023

Spotlight on Staff

Continuing the staff focus from last quarter, we're introducing you to another contributor to DOR on Tap.

I'm Zac Dolan, an Alcohol and Tobacco Specialist whose responsibilities include assisting taxpayers, municipal clerks, and the public with their alcohol and tobacco questions. If you've ever called the number below or sent an e-mail to the enforcement mailbox, you've likely heard back from me.

I've been with the Department of Revenue since 2018 and have spent equal time in the Excise Tax Unit and Alcohol and Tobacco Enforcement Unit. This experience has given me a broad base of knowledge across topics like My Tax Account, permit qualifications, retail licenses and local government issues. I take pride in simplifying complex alcohol beverage laws for anyone who needs assistance. In fact, you can [request a speaker](#) to have me or another colleague give a presentation at your next event.

One of our goals this year is to expand the number of alcohol beverage [fact sheets](#) available on our website. These are some of our best resources available and we would like to hear from you about any topics you'd like to see covered. Give me a call or send me an email to give us your suggestions. We're looking forward to publishing more easy-to-understand resources in the upcoming year.

Happy Holidays,

Zac Dolan

Alcohol and Tobacco Specialist

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Freshly Poured: Alcohol Beverage License Forms

The Department is in the process of updating Forms AT-104, 108, and 315 to have a similar format to Forms AT-103, 106, and 115. In addition, Forms AT-103a, 112, and 200 will be eliminated. Clerks and industry members will be contacted to provide feedback on the draft forms this fall. If you would like to receive emails about alcohol beverage news and when draft forms are available for content, [subscribe](#) to our Alcohol Beverage News or Municipal Clerks mailing lists.

If you have comments or suggestions for the [alcohol beverage retail license forms](#), please contact Ann DeGarmo at ann.degarmo@wisconsin.gov.

Contact Us



(608) 264-4573 | DORAlcoholTobaccoEnforcement@wisconsin.gov



Legislative Update

Legislature passes comprehensive alcohol bill.

On November 14th, the Legislature adopted SB 268/AB 273 with the contents of SB 332/AB 304 amended into it. This proposal includes significant changes for the alcohol industry. SB 268, as amended, rewrites Chapter 125 of the state statutes governing alcohol beverage enforcement, creates a Division of Alcohol Beverages within the Department of Revenue, creates a registry of vapor products, expands the definition of fermented malt beverages to include hard seltzers, and more. As of this writing, the legislation is currently on the Governor's desk awaiting action, which is expected within the next few weeks.

Below is a brief description of the two bills that were combined to be adopted and other bills making their way through the process. More detailed information will come in future On Tap publications.

[2023 Senate Bill 332](#) / [2023 Assembly Bill 304](#) (Sen. LeMahieu / Rep. Vos) This bill creates a Division of Alcohol Beverages attached to DOR; changes retail authorizations for producers; creates fulfillment house, common carriers, operator's, and no-sale event venue permits; clarifies interest restrictions; and more.

[2023 Senate Bill 268](#) / [2023 Assembly Bill 273](#) (Sen. Wanggaard / Rep. Spiros) This bill expands the definition of fermented malt beverages, requires DOR to publish a list of retail licensees online, prohibits possession of alcohol vapor mist machines, requires denied applicants to wait six months before reapplying for an alcohol beverage permit, and requires alcohol beverage permit applicants to pay for criminal history search fees.

[Senate Bill 130](#) / [2023 Assembly Bill 127](#) (Rep. Duchow / Sen. Stroebel) This bill allows most alcohol beverage retailers to sell alcohol beverages online and over the phone, and deliver to the customer or through an independent third-party delivery service. The bill also allows for remote orders of alcohol beverages to be picked up on the licensed premises.

[2023 Senate Bill 262](#) / [2023 Assembly Bill 260](#) (Sen. Jacque / Rep. Mursau) This bill prohibits possession of an open container of alcohol on an ATV or UTV when the vehicle is on a highway, ATV trail, or other established ATV corridor that is open to the public.

[2023 Senate Bill 279](#) / [2023 Assembly Bill 286](#) (Sen. Stafsholt / Rep. Green) This bill allows individuals who are at least 14 years old to carry alcohol beverages from a person allowed to serve alcohol beverages to a customer not seated at a bar on a Class "B," "Class B," or a "Class C" premises.

Provide Your Two Pints: Comment on the Contract Production and Alternating Proprietorship Rule

The Department has released a draft administrative rule regulating the common industry practices of contract production and alternating proprietorships for economic and environmental impact. This was the first time the draft rule was available for review by the public. That comment period ended on November 3, 2023. The department will release the proposed rule text to the public within the next month for publication in the administrative register. We anticipate the public hearing on this rule will be in January when interested parties will have another opportunity to weigh in on the rulemaking process. We value feedback and discussion on this proposed rule. Please consider providing comments on the rule when it is available. [Subscribe](#) to our Alcohol Beverage News or Administrative Rules email lists to be notified when the public hearing is scheduled.

Applicable Laws and Rules

This document provides statements or interpretations of Wisconsin statutes and administrative rules enacted as of November 21, 2023. Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to this date that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis. Stats.

Sales Tax Increases in the City of Milwaukee and Milwaukee County

Starting January 1, 2024

[2023 Wisconsin Act 12](#) increased the sales and use tax rate in Milwaukee County and created a new sales and use tax for all taxable sales in the City of Milwaukee. Retail sales of alcohol beverages are subject to both taxes in the City and County.

Effective January 1, 2024:

- The City of Milwaukee imposes a new 2% sales and use tax.
- The Milwaukee County sales and use tax increases from 0.5% to 0.9%.

Retailers such as taverns, liquor stores, restaurants, brew pubs, and manufacturers authorized to make retail sales of alcohol beverages in Wisconsin must collect Wisconsin state, county, and city sales or use taxes if making taxable sales in the city of Milwaukee and Milwaukee County, regardless of where the retailer is located.

Example: A California winery with a Wisconsin wine direct shippers permit ships wine directly to an individual's home in the city of Milwaukee on January 15, 2024. The winery must collect the 5% state tax, 0.9% Milwaukee County tax, and the 2% city of Milwaukee tax on the retail sale of the wine shipped to the individual in the city of Milwaukee.

The department's [Sales Tax Rate Chart](#) lists Wisconsin state, county, and city sales and use tax rates. You may also search for the sales tax rates applicable to a specific mailing or street address by using the [Wisconsin State and Local Sales Tax Rate Look-Up](#).

In addition, the retail sale of alcohol beverages sold for consumption on the retailer's premises is subject to the 0.5% local exposition district's food and beverage tax in Milwaukee County. Local exposition taxes are reported on a separate return from the Wisconsin sales and use tax return. For more information, see [Publication 410, Local Exposition Taxes](#).

Questions about sales and use taxes or local exposition taxes?

- Email DORSalesandUse@wisconsin.gov or
- Call the department's Customer Service Bureau at (608) 266-2776.

Roll out the Barrell: How to Change an Authorized Premises

Every alcohol beverage retail license issued in Wisconsin has an authorized premises, which is the physical area where the activities authorized by the license may occur. This area is specifically described on the initial license application, reviewed by the municipality, and is printed on the license certificate.

A retailer may want to amend that premises description to allow sales or consumption in an adjacent area, such as a fall festival area, baseball diamond, or new outdoor patio. To expand the premises, a retailer must obtain approval from the issuing authority.

Wisconsin law has established that neither the retailer, nor the municipality, may unilaterally change a premise description. This means that both parties must agree to any changes of a premises for an existing license.

Wisconsin law does not specifically describe the process a retailer and municipality must go through to apply for a change to the premises, but it should include the retailer sending a written request for the new premises to the municipality. The department does not provide a form for premises changes. The municipality may request additional information as needed before reviewing the request. Only the village or town board, or city council has the authority to approve a new premises description. If granted, a new license certificate should be provided to the retailer.

The process for changing the premises of a department-issued alcohol beverage permit is similar except that the issuing authority is the Department of Revenue. A permit holder may request a premises change by contacting the department using the contact information in this newsletter.

Q & A: Self-Serve Beer Taps

Self-serve beer taps, also known as self-pour taps, are a self-dispensing system where customers have direct access to beer taps, usually affixed to a wall. Customers often purchase a pre-loaded keycard, fob or other device at the licensed premises that authorizes the customer to dispense a specific volume of alcohol beverages.

Are self-serve beer taps legal in Wisconsin?

There is nothing inherently illegal in Wisconsin about self-serve beer taps at a properly licensed on-premises establishment. However, some restrictions apply (see below).

What about face-to-face sales requirements?

Wisconsin law requires alcohol beverages to be sold or served in a face-to-face transaction at the licensed premises. Face-to-face sale requirements play a vital role in preventing sales to underage and/or intoxicated persons. If the sale of alcohol beverages occurs face-to-face on the licensed premises (i.e., the purchase of 32 oz. of beer to be loaded on a fob), then customers may dispense that amount from a self-serve beer tap on the premises.

Aren't there licensed operator (bartender) requirements?

Yes. Wisconsin alcohol beverage laws prohibit a licensed retailer from being open for business without a licensed operator, or someone with privilege of an operator's license, present on the licensed premises. Additionally, the law requires that alcohol beverages must be served by a licensed operator, someone with privilege of an operator's license, or someone who is under the immediate supervision of one of the individuals listed. Therefore, if a licensed operator, or someone with privilege of an operator's license, is present on the premises and immediately supervising the service of self-pour beer taps, then the requirements are met.

