

1979 Assembly Bill 763

Date published: April 7, 1980

## CHAPTER 165, Laws of 1979

AN ACT to renumber 66.054 (8) (b) to (e) and 176.33; to amend 66.054 (19) and 176.32 (1); and to create 66.054 (8) (b) and (19) (d), 176.32 (1) (d) and 176.33 (2) of the statutes, relating to permitting auctions and retail sales of secondhand or antique merchandise or art on premises for which Class "B" fermented malt beverage or "Class B" intoxicating liquor licenses are issued.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 66.054 (8) (b) to (e) of the statutes are renumbered 66.054 (8) (c) to (f).

SECTION 2. 66.054 (8) (b) of the statutes is created to read:

66.054 (8) (b) 1. In this paragraph "market" means the retail sale of secondhand or antique merchandise or art.

2. Notwithstanding par. (a), a market or an auction may be conducted on premises for which a Class "B" retailer's license has been granted, except the number of days on which a market is held and the number of days on which an auction is held on the premises shall not exceed a combined total of 4 days each month. A day on which both an auction and a market is held shall be counted as 2 days for the purpose of computing the total number of days on which auctions or markets are held.

3. No Class "B" retailer's license may be granted for premises on which the retail sale of secondhand or antique merchandise or art, other than merchandise or art sold in the ordinary course of a business which under par. (a) may be conducted on licensed premises, or an auction has been conducted within one year of the date of filing an application

except a license may be granted if an auction or market has been conducted on licensed premises as authorized under subd. 2.

4. No person may consume, sell, give away or furnish fermented malt beverage or intoxicating liquor on Class "B" licensed premises if an auction or market authorized under subd. 2 is being conducted except in a room in which no activity related to the auction or market is being conducted.

SECTION 3. 66.054 (19) of the statutes is amended to read:

66.054 (19) PRESENCE IN PLACES OF SALE PROHIBITED; PENALTY. (a) A keeper of any place for the sale of any fermented malt beverage under a Class "B" retailer's license, who directly or indirectly suffers or permits a person under the age of 18 years, unaccompanied by his or her parent, guardian or adult spouse, who is not a resident, employe or a bona fide lodger or boarder on the premises controlled by the proprietor or licensee of the place, and of which the place consists or is a part, to enter or be on the licensed premises for any purpose, ~~excepting the transaction of bona fide business other than amusement, the purchase, receiving or consumption of edibles or beverages except as provided by par.~~ (d), for every such offense, may be fined not more than \$250, besides costs, or imprisoned for not more than 60 days.

(b) A person under the age of 18 years who enters or remains on the premises without a valid purpose and who is not a resident, employe or a bona fide lodger or boarder on the premises, or who is not accompanied by his or her parent, guardian or adult spouse, may be fined not more than \$100, besides costs.

(c) This subsection does not apply to hotels, drug stores, grocery stores, bowling alleys, premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in chs. 27 and 28, parks owned or operated by agricultural societies receiving state aid, cars operated on any railroad, regularly established athletic fields or stadiums nor to premises operated under both a Class "B" license and a restaurant permit where the principal business conducted therein is that of a restaurant. It is presumed where the premises are operated under both a Class "B" license and a restaurant permit, that the principal business conducted is that of the sale of fermented malt beverage, until the presumption is rebutted by competent evidence.

(e) The provisions of sub. (15) providing for punishment of violators of this section by fine and imprisonment do not apply to this subsection. This prohibition does apply to any person who is not a resident, employe or a bona fide lodger or boarder on the premises, after the legal hour for closing.

SECTION 4. 66.054 (19) (d) of the statutes is created to read:

66.054 (19) (d) A person under 18 years of age may enter and remain, and may be permitted to enter and remain, on Class "B" licensed premises if for the purpose of transacting bona fide business other than amusement or the purchase, receiving or consumption of edibles or beverages except a person under 18 years of age who enters for the purpose of transacting business at an auction or a market as defined by sub. (8) (b) 1 may not enter or remain in, or be permitted to enter or remain in, a room in which fermented malt beverage is sold or furnished.

SECTION 5. 176.32 (1) of the statutes is amended to read:

176.32 (1) ~~Every~~ (a) A keeper of any place, of any nature or character whatsoever, for the sale of any intoxicating liquor, who either directly or indirectly suffers or permits any person of ~~either sex~~ under the age of 18 years, unaccompanied by his or her parent, guardian or spouse, of whom one shall be 18 years of age, ~~or suffers or permits any person to whom the sale of any such liquors has been forbidden in the manner provided by law,~~ who is not a resident, employe, or a bona fide lodger or boarder on the premises of such licensed person, to enter or be on ~~such the~~ licensed premises for any purpose, ~~excepting the~~

~~transaction of bona fide business other than amusement or the purchase, receiving or consumption of edibles or beverages except as provided by par. (d), shall, for every such offense, be fined not exceeding \$250 or imprisoned not exceeding 60 days; and any such~~

(b) A person so remaining as aforesaid, under 18 years of age who enters and remains on the premises of a place which sells intoxicating liquor for other than a valid purpose under par. (d) and who is not a resident, employe, or a bona fide lodger or boarder on the premises, or who is not accompanied by his or her parent, guardian or spouse, of whom one shall be 18 years of age, shall be fined not more than \$20 or imprisoned not exceeding 30 days.

(c) This section shall not apply to hotels, drug stores, grocery stores, bowling alleys, ski chalets, golf clubhouses, cars operated on any railroad, regularly established athletic fields or stadiums nor to premises operated under both a "Class B" license and a restaurant permit where the principal business conducted therein on the premises is that of a restaurant. It shall be is presumed, however, where such premises are so operated under both a "Class B" license and a restaurant permit, that the principal business conducted therein on the premises is that of the sale of intoxicating liquor, until such the presumption is rebutted by competent evidence.

SECTION 6. 176.32 (1) (d) of the statutes is created to read:

176.32 (1) (d) A person under 18 years of age may enter premises on which intoxicating liquor is sold if for the purpose of transacting bona fide business other than amusement or the purchase, receiving or consumption of edibles or beverages except a person under 18 years of age who enters "Class B" licensed premises for the purpose of transacting business at an auction or a market as defined by s. 66.054 (8) (b) 1 may not remain in, or be permitted to enter or remain in, a room in which intoxicating liquor is sold or furnished.

SECTION 7. 176.33 of the statutes is renumbered 176.33 (1).

SECTION 8. 176.33 (2) of the statutes is created to read:

176.33 (2) The sale, furnishing or giving away of intoxicating liquors on premises for which a "Class B" license has been issued is not a violation of this section if the intoxicating liquor is sold, furnished or given away in a room in which no activity is occurring related to a public auction then being held on the premises.

SECTION 9. **Cross reference changes.** In the sections of the statutes listed in Column A, the cross references shown in Column B are changed to the cross references shown in Column C:

A	B	C
Statute Sections	Old Cross References	New Cross References
66.054 (23)	sub. (8) (b)	sub. (8) (c)
176.08	66.054 (8) (b)	66.054 (8) (c)

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