



**ASSEMBLY AMENDMENT 18,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 40**

June 14, 2011 – Offered by Representatives RADCLIFFE, RINGHAND, BEWLEY,
MOLEPSKE JR and YOUNG.

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 1065, line 19: delete lines 19 to 22.
- 3 **2.** Page 1067, line 9: delete lines 9 to 21.
- 4 **3.** Page 1067, line 24: delete “~~Except as provided in s. 125.29,~~” and substitute
5 “Except as provided in s. 125.29,”.
- 6 **4.** Page 1067, line 24: delete “~~a~~” and substitute “a”.
- 7 **5.** Page 1067, line 25: delete “A”.
- 8 **6.** Page 1071, line 7: after that line insert:
- 9 “**SECTION 2604en.** 125.28 (2) (f) of the statutes is created to read:
- 10 125.28 (2) (f) Paragraphs (b) 1. b., c., and f. and 2. and (d) do not apply to a
- 11 brewer that manufactures less than 300,000 barrels of fermented malt beverages in

1 a calendar year from all locations. Such a brewer may hold a wholesaler's permit in
2 the same manner that it was authorized to hold a wholesaler's license under ss.
3 125.28 and 125.29 (4), 2009 stats.”.

4 **7.** Page 1073, line 9: after that line insert:

5 “(f) This subsection does not apply to a brewer that manufactures less than
6 300,000 barrels of fermented malt beverages in a calendar year from all locations.”.

7 **8.** Page 1076, line 25: after that line insert:

8 “**SECTION 2604en.** 125.29 (7) of the statutes is created to read:

9 125.29 (7) SMALL BREWERS. (a) In this subsection, “small brewer” means a
10 brewer that manufactures less than 300,000 barrels of fermented malt beverages in
11 a calendar year from all locations.

12 (b) Subsections (2), (3), (3m), and (6) do not apply to a small brewer. Instead,
13 the provisions of this subsection and s. 125.31 apply to a small brewer.

14 (c) Except as provided in s. 125.31, no person that holds a Class “B” license or
15 permit issued under this chapter and that is a small brewer may register as a brewer.

16 (d) Subject to s. 125.34 (2), a small brewer may manufacture, possess, and store
17 fermented malt beverages on the brewery premises and transport fermented malt
18 beverages between the brewery premises and any depot or warehouse maintained
19 by the brewer for which the brewer has a wholesaler's permit issued under s. 125.28.
20 A brewer or individual representing a brewer may also provide taste samples as
21 authorized under s. 125.33 (12).

22 (e) A small brewer may hold a wholesaler's permit issued under s. 125.28 and
23 a Class “B” license as provided under s. 125.31. The small brewer may hold the

1 wholesaler's permit in the same manner that it was authorized to hold a wholesaler's
2 license under ss. 125.28 and 125.29 (4), 2009 stats.

3 (f) No small brewer issued a permit under this section after November 25, 2007,
4 may hold a restaurant permit issued under s. 254.64.”.

5 **9.** Page 1077, line 5: delete “s. ~~125.34 (6) (e) sub. (4)~~” and substitute “sub. (4)
6 and s. 125.34 (6) (c)”.

7 **10.** Page 1078, line 13: delete that line and substitute:

8 “**SECTION 2604gdc.** 125.31 (title) of the statutes is amended to read:

9 **125.31** (title) **Multiple licenses and permits; small brewers.**

10 **SECTION 2604gde.** 125.31 (1) (a) of the statutes is renumbered 125.31 (1) (am)
11 and amended to read:

12 125.31 (1) (am) 2. Notwithstanding ss. 125.29 ~~(2) (7) (c)~~ and 125.33 (1), a small
13 brewer may maintain and operate one place on brewery premises, and another place,
14 for the sale of fermented malt beverages for which a Class “B” license is required for
15 each place, but, except as provided in subd. 4., not more than 2 such Class “B”
16 licenses shall be issued to any small brewer.

17 4. Notwithstanding ss. 125.29 ~~(2) (7) (c)~~ and 125.33 (1), in addition to places
18 authorized under subd. 2., a small brewer may possess or hold an indirect interest
19 in a Class “B” license for not more than 20 restaurants in each of which the sale of
20 alcohol beverages accounts for less than 60% of the restaurant's gross receipts if no
21 fermented malt beverages manufactured by the small brewer are offered for sale in
22 any of these restaurants.

23 **SECTION 2604gdh.** 125.31 (1) (ac) of the statutes is created to read:

1 125.31 (1) (ac) In this section, “small brewer” means a brewer that
2 manufactures less than 300,000 barrels of fermented malt beverages in a calendar
3 year from all locations.

4 **SECTION 2604gdj.** 125.31 (1) (b), (c) and (d) and (2) and (3) of the statutes are
5 amended to read:

6 125.31 (1) (b) Notwithstanding ss. 125.29 ~~(2)~~ (7) (c) and 125.33 (1), a small
7 brewer may own, maintain or operate places for the sale of fermented malt beverages
8 at the state fair park or on any county fairgrounds located in this state, in addition
9 to places authorized under par. ~~(a)~~ (am).

10 (c) Any Class “B” license necessary in connection with this subsection shall be
11 issued to the small brewer.

12 (d) Notwithstanding s. 125.33 (1), a small brewer may own the furniture,
13 fixtures, fittings, furnishings and equipment on such premises and shall pay any
14 license fee or tax required for the operation of the premises.

15 (2) Subject to s. 125.34, a small brewer may own, maintain or operate depots
16 and warehouses from which sales of fermented malt beverages, not for consumption
17 in or about the premises where sold, may be made in original packages to retailers
18 and wholesalers. A separate wholesaler’s license is required for each depot or
19 warehouse owned, maintained or operated.

20 (3) Subject to ss. 125.29 ~~(4)~~ (7) (e) and 125.34, a brewer may sell fermented malt
21 beverages in the original packages or containers, not to be consumed on the premises
22 where sold:

23 (a) To retailers and wholesalers, if the brewer obtains a wholesaler’s license
24 permit; or

1 (b) To persons other than licensees and permittees, if the small brewer obtains
2 a Class “A” or Class “B” license.”.

3 **11.** Page 1078, line 22: delete the material beginning with that line and
4 ending with page 1079, line 6.

5 **12.** Page 1080, line 24: delete “~~who holds a retail license issued under this~~
6 ~~chapter~~” and substitute “~~who~~ that holds a retail license issued under this chapter or
7 that is”.

8 **13.** Page 1081, line 13: delete the material beginning with that line and
9 ending with page 1082, line 4.

10 **14.** Page 1082, line 14: after that line insert:

11 “**SECTION 2604hf.** 125.34 (1) (fm) of the statutes is created to read:

12 125.34 (1) (fm) “Small brewer” means a brewer that manufactures less than
13 300,000 barrels of fermented malt beverages in a calendar year from all locations.”.

14 **15.** Page 1082, line 21: delete “~~sub. (6) (b) and~~” and substitute “sub. (6) (b)
15 and”.

16 **16.** Page 1083, line 2: delete “~~and~~” and substitute “and”.

17 **17.** Page 1083, line 3: delete that line and substitute “shall be a physically
18 separate location from any retail premises or brewery premises.”.

19 **18.** Page 1083, line 9: delete that line and substitute:

20 “**SECTION 2604hn.** 125.34 (2) (bg), (bm) and (c) of the statutes are amended to
21 read:

22 125.34 (2) (bg) Notwithstanding par. (a), a small brewer that, together with its
23 brewer group, manufactures not more than 50,000 barrels of fermented malt

1 beverages in a calendar year in any location may be issued a wholesaler's license
2 permit for wholesale premises located on brewery premises.

3 (bm) Notwithstanding par. (a), a small brewer that, together with its brewer
4 group, manufactures more than 50,000 barrels of fermented malt beverages in a
5 calendar year in any location may be issued a wholesaler's license permit for
6 wholesale premises located on brewery premises but may not sell or ship more than
7 a total of 1,000 barrels of fermented malt beverages in any calendar year to retailers
8 from these wholesale premises. Fermented malt beverages provided by a small
9 brewer to any retail premises for which the small brewer holds the retail license shall
10 not be included in any calculation of the 1,000 barrel limitation under this
11 paragraph.

12 (c)1. Except as provided in par. (bm) and notwithstanding par. (a), a small
13 brewer may be issued a wholesaler's license for wholesale premises located on
14 brewery premises if, from these wholesale premises, the small brewer sells or ships
15 fermented malt beverages only to other wholesalers.

16 2. Notwithstanding subd. 1., a small brewer issued a wholesaler's license
17 permit under subd. 1. may, from the wholesale premises located on brewery
18 premises, sell or ship any brand of fermented malt beverages to retailers located in
19 a designated sales territory for the brand if the wholesaler to which the small brewer
20 has granted distribution rights for the brand in this designated sales territory is
21 unable to service the designated sales territory for any reason, including because of
22 discontinuance of the wholesaler's distribution rights. A small brewer may sell or
23 ship fermented malt beverages to retailers under this subdivision for not more than
24 12 months after the wholesaler becomes unable to service the wholesaler's
25 designated sales territory.”.

1 **19.** Page 1083, line 10: delete lines 10 to 18 and substitute:

2 “**SECTION 2604hp.** 125.34 (3) (a) 3. of the statutes is amended to read:

3 125.34 (3) (a) 3. If the wholesaler and ~~the brewer or out-of-state shipper a~~
4 small brewer specified in subd. 1. are the same person, in lieu of the written
5 agreement specified in subd. 1., the wholesaler and small brewer ~~or out-of-state~~
6 ~~shipper~~ shall maintain in writing the information specified in subd. 1. and the
7 wholesaler and small brewer ~~or out-of-state shipper~~ are, in this writing, subject to
8 the restriction specified in subd. 2.”.

9 **20.** Page 1083, line 19: delete the material beginning with that line and
10 ending with page 1084, line 6, and substitute:

11 “**SECTION 2604ht.** 125.34 (4) (a) of the statutes is amended to read:

12 125.34 (4) (a) Any retailer located outside the wholesaler’s designated sales
13 territory for the brand. This paragraph does not apply if another wholesaler that has
14 been granted distribution rights for the brand in the designated sales territory where
15 the sale, transportation, or delivery occurs is unable to service this designated sales
16 territory and the brewer, brewpub, or out-of-state shipper granting distribution
17 rights has, notwithstanding sub. (3) (a), given consent for the sale, transportation,
18 or delivery, which consent shall be limited to the time period that another wholesaler
19 is unable to service this designated sales territory. This paragraph does not apply if
20 the wholesaler is also a small brewer and another wholesaler to whom this small
21 brewer has granted distribution rights for the brand in the designated sales territory
22 where the sale, transportation, or delivery occurs has, notwithstanding sub. (3) (a),
23 given consent for the sale, transportation, or delivery or refused to service this
24 territory.”.

1 **21.** Page 1084, line 8: delete “~~sub. (6) (b) and~~” and substitute “sub. (6) (b) and”.

2 **22.** Page 1084, line 15: delete lines 15 to 23 and substitute:

3 “**SECTION 2604jf.** 125.34 (6) of the statutes is amended to read:

4 125.34 **(6)** (a) Except as provided in pars. (b) and (c) and ss. 125.06 (1), 125.29
5 (3), (3m) (b) and (c), 125.30 (4), and 125.31 (1) and (3), a brewer or out-of-state
6 shipper may sell, transport, and deliver fermented malt beverages only to a
7 wholesaler, which may be the a small brewer ~~or out-of-state shipper~~ itself if, in its
8 activities as a wholesaler, it complies with the requirements under subs. (2) to (5).

9 (b) A small brewer ~~or out-of-state shipper~~ that holds a Class “A” license or
10 Class “B” license may sell fermented malt beverages to persons other than licensees
11 and permittees in accordance with the terms of the license, the provisions of s.
12 125.31, and the applicable provisions of this chapter relating to retailers.
13 Subsections (2) to (5) do not apply with respect to fermented malt beverages provided
14 by a small brewer to any retail premises for which the small brewer holds the retail
15 license.

16 (c) A small brewer that holds an out-of-state shipper’s permit for premises
17 located in another state used for the manufacture of fermented malt beverages may
18 ship fermented malt beverages from those premises to any brewery premises of the
19 small brewer in this state.”.

20

(END)