

12.02 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES. (1) STATE STATUTES ADOPTED. The provisions of Ch. 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages, except §§125.03, 125.14(4), 125.15, 125.16, 125.19, 125.20, 125.29, 125.30, 125.33, 125.52, 125.53, 125.54, 125.55, 125.56, 125.58, 125.59, 125.60, 125.61, 125.62, 125.65, 125.67 and 125.69, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said Statutes, are hereby adopted and made a part of this section by reference. A violation of any such provision, or future amendments thereto, shall constitute a violation of this section.

(2) DEFINITIONS. As used in this section, the following definitions apply:

(a) Legal Drinking Age. Twenty-one years of age.

(b) Underage Person. A person who has not attained the legal drinking age.

(3) LICENSE APPLICATION. Application for a license to sell or deal in alcohol beverages shall be made in writing on the form prescribed by §125.04(3), Wis. Stats., and shall be filed together with the cost of publication as provided by §125.04(3)(g)6., Wis. Stats., with the Village Clerk not less than 15 days prior to the granting of the license. However, applications for licenses to be issued under §§125.26(6) and 125.51(4m), Wis. Stats., shall be filed with the Clerk not less than 3 days prior to the granting of the license. Further, as a condition of granting an operator's license, the applicant shall permit the Village to secure from the Federal Bureau of Investigation and the Wisconsin Crime Information Bureau a record check of the applicant. The license fee shall be paid at least 15 days before the license is issued and no license shall be issued until the fee has been paid.

(4) APPLICATION INVESTIGATION. The Village Clerk shall notify the Legislative Committee of each new license and permit application and these officials shall review such application and inspect, or cause to be inspected, the premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the Village Board, in writing, the information derived from such investigation. No license or permit provided for in this section shall be issued without the approval of a majority of the Village Board.

(5) LICENSE FEES. The fees for issuance of fermented malt beverage and intoxicating liquor licenses shall be as follows:

(a) Class "A" Fermented Malt Beverage License. \$100 per year. See §125.25, Wis. Stats.

(b) Class "B" Fermented Malt Beverage License. \$100 per year. See §125.26, Wis. Stats.

(c) Temporary Class "B" Licenses. 1. Picnic License, Beer. \$10 per event. Issued to organizations enumerated in §125.32(4)(a)7., Wis. Stats., to sell or serve fermented malt beverages at a picnic, meeting or gathering. The application for a picnic license shall be submitted to the Village Clerk not less than 15 days prior to the meeting of the Village Board. The Village Board may grant picnic licenses for no more than 3 consecutive days subject to such conditions imposed by the Village Board. See also §125.26(6), Wis. Stats.

2. Picnic License, Wine. \$10 per event, except that no fee shall be charged in the event a license under subpar. 1. above is simultaneously issued. Issued to organizations enumerated in §125.32(4)(a)7., Wis. Stats., to sell or serve wine at a picnic, meeting or gathering. See §125.51(10), Wis. Stats.

3. Annual Quota. No more than 2 licenses may be issued in any 12 month period.

(d) "Class B" Intoxicating Liquor License. \$100 per year, except the license fee for bona fide clubs and lodges situated and incorporated or chartered in the State for at least 6 years shall be \$50 per year, as provided in §125.51(3)(e), Wis. Stats.

1. A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fraction thereof remaining until the following June 30.

2. Licenses valid for 6 months may be issued at any time. The fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued.

(e) Wholesalers Fermented Malt Beverage License. \$25 per year or fraction thereof. See §125.51(2), Wis. Stats.

(f) Operator's License. \$25 per year or fraction thereof. No new operator's license shall be granted unless the applicant has successfully completed a VTAE responsible beverage server training course or is otherwise exempt from such requirement under §125.17(6)(a), Wis. Stats. The Village Clerk may issue a provisional operator's license to a person who is enrolled in said training course and shall revoke such license if the applicant fails to successfully complete the course.

(g) Provisional Operator's License. \$15 for up to 30 days, as provided in §125.17(5), Wis. Stats.

(h) Provisional Retail Alcohol Beverage License. \$15 for up to 60 days, as provided in §125.195, Wis. Stats.

(i) Temporary Operator's License. \$5 for up to 14 days, as provided in §125.17(4) Wis. Stats.

(j) Transfer of License to Another Premises. \$10.

(6) OPERATOR'S LICENSE. All applications for an annual operator's license shall be filed in the office of the Village Clerk on or before May 31 of each year, provided that nothing shall prevent the Village Board from granting any license which is applied for at least 5 working days before a Village Board meeting at any other time for a fraction of the year for the annual fee.

(7) LICENSE REQUIRED. No person shall vend, sell, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any liquor or fermented malt beverages, or cause the same to be done, without having procured a license as provided in this section nor without complying with all provisions of this section, and all Statutes, ordinances and regulations applicable thereto. A license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication to each other where liquor and fermented malt beverages are kept, sold or offered for sale.

(8) QUALIFICATIONS FOR LICENSES AND PERMITS. (a) Natural Persons. Licenses related to alcohol beverages, issued to natural person under this section, may be issued only to persons who:

1. Do not have an arrest or conviction record, subject to §§111.321, 111.322 and 111.335, Wis. Stats.

2. Have been residents of this State continuously for at least one year prior to the date of filing the application for license, except that Class B licenses may be issued to a person who has been a resident of the State continuously for 90 days prior to the date of the application.

3. Have attained the legal drinking age, except that operators' licenses may be issued to any person who has attained the age of 18.

(b) Criminal Offenders. No license or permit related to alcohol beverages may, subject to §§111.321, 111.322 and 111.335, Wis. Stats., be issued under this section to any natural person who has been convicted of a felony unless the person has been duly pardoned.

(c) Corporations. No license or permit may be issued to any corporation unless the agent of the corporation appointed under §125.04(6), Wis. Stats., and the officers and directors of the corporation meet the qualifications of pars. (a)1. and 3. and (b) above, except that par. (a)2. does not apply to agents.

(9) "CLASS B" LIQUOR LICENSE QUOTA. The number of "Class B" liquor licenses to be issued hereunder is limited to the number permitted under §125.51(4), Wis. Stats.

(10) LICENSE CONDITIONS AND RESTRICTIONS. In addition to the conditions and restrictions imposed by State law on the granting of Class B fermented malt beverage licenses and intoxicating liquor licenses hereunder, the following conditions and restrictions shall apply:

(a) Consent to Inspection of Premises. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any peace officer of the Village without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. If such inspection is denied, such denial shall be deemed a violation of this section.

(b) Violation by Agents or Employees. A violation of this section by a duly authorized agent or employee of a licensee shall constitute a violation of the licensee.

(c) Sales to Underage Persons Restricted. No alcohol beverage shall be sold, dispensed, given away or furnished to any underage person unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(d) Sales by Clubs. No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

(e) Commencement of Operations. Within 90 days after the issuance of a "Class B" intoxicating liquor license or a Class "B" fermented malt beverage license, the licensee shall be open for business with adequate stock and equipment. Upon his failure to do business within such time, his license shall be subject to revocation by the Village Board after a public hearing. The village Board may, for a good cause shown, extend such 90 day period.

(f) Cessation of Operations. If any licensee shall suspend or cease doing business for 90 consecutive days or more, his Class B intoxicating liquor license and fermented malt beverage license shall be subject to revocation by the Village Board after a public hearing. The Village Board may, for a good cause shown, extend such 90 day period.

(g) Transfer of License. No license shall be transferable from person to person except as provided in §125.04(12)(b), Wis. Stats., or from place to place, except as provided in §125.04(12)(a), Wis. Stats.

(h) Location of Premises Restricted. No retail Class B license shall be issued for premises, the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. This paragraph shall not apply to premises so licensed on June 30, 1947.

(i) Safety and Health Requirements. No retail Class B license shall be issued unless the premises to be licensed conform to the sanitary, safety and health requirements of the State Building Code, the State Plumbing Code and the rules and regulations of the State Department of Health and Social Services applicable to restaurants, and also shall conform to all ordinances and regulations of the Village.

(j) Operator on Duty Required. The licensee, a member of his immediate family or a licensed operator must be present at all times in the immediate area open to the public where alcohol beverages are being served.

(k) Village Taxes and Claims. No license shall be granted for operation on any premises upon which personal property taxes or assessments or other financial claims of the Village are delinquent and unpaid.

(l) Disorderly Conduct and Gambling Prohibited. Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any licensed premises.

(m) Posting of Licenses Required. Licenses or permits issued under this section shall be posted and displayed as provided in §125.04(10), Wis. Stats., and any licensee or permittee who shall fail to post his license or permit as therein required shall be presumed to be operating without a license.

(11) CLOSING HOURS. No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages, as follows:

(a) Wholesale License. Between 5:00 P.M. and 8:00 A.M., except Saturdays when the closing hour shall be 9:00 P.M.

(b) Retail Class "A" License. Between 12:00 midnight and 8:00 A.M.

(c) Retail "Class A" License (Liquor Store). Between 9:00 P. M. and 8:00 A. M.

(d) Retail Class B License. No premises shall be open for the sale of intoxicating liquor or fermented malt beverage between the hours of 2:00 A.M. to 6:00 A.M., except on Saturday and Sunday the closing hour shall be 2:30 A.M.; on January 1 there are no closing hours.

(e) Hotels and Restaurants. Hotels and restaurants, the principal business of which is the furnishing of food and/or lodging to patrons, shall be permitted to remain open after closing hours for the conduct of regular business, but shall not sell intoxicating liquors or malt beverages during the closing hours stated in par. (d) above.

(f) Presence on Premises After Closing Hour Restricted. 1. Any person who is not an employee of the licensee who remains on the premises after the designated closing hour is subject to the penalties as provided in this chapter.

2. Any person, while on the premises after closing hours, must be actively engaged in bona fide business activities and may not consume alcohol beverages.

(12) NUDE DANCING IN LICENSED ESTABLISHMENTS. (a) Prohibited. It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in, any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

1. Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering; or

2. Shows any portion of the female breast below a point immediately above the top of the areola; or

3. Shows the covered male genitals in a discernibly turgid state.

(b) Exemption. The provisions of this subsection do not apply to theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(c) Definitions. For purposes of this subsection:

1. Licensed Establishment. Any establishment licensed by the Village to sell alcohol beverages pursuant to Ch. 125, Wis. Stats.

2. Licensee. The holder of a retail "Class A", "Class B", Class "B", Class "A" or "Class C" license granted by the Village pursuant to Ch. 125, Wis. Stats.

(d) Penalties. Any person who violates any of the provisions of this subsection shall be subject to a forfeiture as provided in sec. 25.04 of this Code. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this subsection constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under §125.12, Wis. Stats.

(13) POSSESSION AND CONSUMPTION OF ALCOHOL BEVERAGES RESTRICTED. (a) Possession Outside Taverns or Picnic Areas Prohibited. No person shall consume alcohol beverages or carry about an open container of alcohol beverages on public or private property held out for use of the public outside a licensed tavern or off the premises of an established picnic area where such possession and consumption is permitted. This section shall not be construed so as to prevent consumption of alcohol beverages outside private residences on private property in such a manner as is normally associated with use at a private home or residence.

(b) Special Events. The Village Board may grant permits for consumption in designated areas during special occasions in connection with picnic beer licenses.

(c) Special Permits. Special permits for consumption of alcohol beverages in designated areas on tavern premises may be granted, i.e., horseshoe pits with direct access to and from the designated area (to/from tavern) without infringing on neighboring property or public property.

(d) Parked Vehicles. No person shall consume any alcohol beverages while in a vehicle parked on a public thoroughfare or any public parking lot.

(e) Open Containers in Vehicles Prohibited. No person shall possess or permit to be possessed in any moving or parked vehicle under his control any open container of alcohol beverages.

(14) SALE OF CLASS B PACKAGED GOODS. (a) Sale Restrictions. Pursuant to §125.51(3)(b), Wis. Stats., no person may sell intoxicating liquor in an original unopened package, container or bottle for consumption away from the premises in excess of 4 liters at any one time on any premises for which any "Class B" intoxicating liquor license or combination Class B alcohol beverage license has been issued. However, packaged goods sales of fermented malt beverages and wine from such premises may be made in any quantity.

(b) Hours of Sale. Between the hours of 12:00 midnight and 8:00 A.M., no person may sell any packaged goods from any Class B licensed premises.

(15) UNDERAGE PERSON; PRESENCE IN PLACES OF SALE. (a) Restrictions. Pursuant to §125.07(3), Wis. Stats., an underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises.

(b) Exceptions. Paragraph (a) above shall not apply to:

1. An underage person who is a resident, employee, lodger or boarder on the licensed premises.

2. Licensed restaurants where the principal business is that of a restaurant.

3. A person who is at least 18 years of age and who is working under a contract with the licensee to provide entertainment for customers on the premises.

4. An underage person who enters on Class "B" or "Class B" premises on dates specified by the licensee when no alcohol beverages will be consumed, sold or given away. The licensee shall notify the Village Clerk of such specified dates; unless all alcohol beverages are stored in a locked portion of the premises, the licensee or a licensed operator must be on the premises at all times.

(16) UNDERAGE PERSON; CONSUMPTION AND POSSESSION OF ALCOHOL BEVERAGES. (a) Restrictions. Pursuant to §125.07(4)(b) and (bm), Wis. Stats., no underage person not accompanied by a parent, guardian or spouse who has attained the legal drinking age may knowingly possess or consume alcohol beverages.

(b) Exceptions. An underage person may possess alcohol beverages if employed by any of the following:

1. A brewer
2. A fermented malt beverages wholesaler
3. A permittee other than a Class "B" or "Class B" permittee
4. A facility for the production of alcohol fuel
5. A retail licensee or permittee under the conditions specified in §§125.32(2) or 125.68(2),

Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.

(c) Selling or Serving Alcohol Beverages. Pursuant to §§125.32(2) and 125.68(2), Wis. Stats., any underage person who is at least 18 years of age may sell or serve alcohol beverages on any Class B premises, provided that such underage person is under the immediate supervision of the licensee, agent or manager, or a licensed operator, who is on the premises at the time of such sale or service.

(17) REVOCATION AND SUSPENSION OF LICENSES. (a) Procedure. Except as hereinafter provided in sub pars. 1. and 2. below, the provisions of §125.12(2) and (3), Wis. Stats., shall be applicable to proceedings for revocation or suspension of licenses or permits granted under this section. Revocation or suspension proceedings may be initiated upon written complaint by the Village President or by the Village Board upon its own motion.

1. No license shall be suspended, revoked or non- renewed for a single violation of serving an underage person in a one-year period and no more than one citation may be issued for a single violation.

2. Pursuant to §945.03(2m), 945.04(2m) and 945.04(11), Wis. Stats., no Class "B" license or "Class B" license shall be suspended, revoked or non-renewed for possession of up to 5 video gambling machines on such premises.

(b) Repossession of License or Permit. Whenever any license or permit shall be revoked or suspended pursuant to this subsection, the Village Clerk shall notify the licensee or permittee of such revocation or suspension and shall take physical possession of the license or permit wherever it may be found and file it in the office of the Clerk.

(c) Effect of Revocation of License. No license shall be issued for any premises if a license covering such premises has been revoked within 6 months prior to application. No license shall be issued to any person who has had a license issued pursuant to this section revoked within 12 months prior to application.