

DOR on Tap

An Alcohol Industry Update

May 2024

Fermenting!



Greetings! My name is Mark Meyer, and I am the Division Administrator of the newly created Division of Alcohol Beverages at the Department of Revenue. We went live on May 1, 2024, and it has been a whirlwind of activity here. Not only did many of the provisions of Act 73 go into effect on May 1, but we are also hard at work building our team, which will eventually number 20 employees.

My background includes work in local, state, and federal government for about 25 years. If you are from western Wisconsin, we may have met, as I represented the La Crosse area in both the state Assembly and state Senate. I was also a regulator on the Public Service Commission for seven years.

If I am not at work, you will likely find me in my very large garden, camping in my Scamp, trout fishing, or chasing my dog, Atticus, around the dog park.

Stakeholder involvement both in building this division and in the writing of the administrative rules necessitated by the passage of 2023 Act 73 is an extremely high priority for me and the staff at the Division of Alcohol Beverages. Some of the changes in alcohol beverage law from the last session are new territory for all of us. We encourage and welcome your input as we navigate this new paradigm. Undoubtedly this will not be easy. With your help we can try to achieve the best results and outcomes for the people of Wisconsin.

Feel free to contact me or our staff as we build this together at DORAlcohol@wisconsin.gov.

Applicable Laws and Rules

This document provides statements or interpretations of Wisconsin statutes and administrative rules enacted as of May 1, 2024. 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 Guidance issued prior to this date that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis.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.

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A Whole(sale) Crime

After a lengthy investigation by DOR's Alcohol and Tobacco Enforcement Unit, a former liquor wholesaler employee was charged with multiple criminal counts in two counties.

In the criminal complaints filed in October 2021, Steven J. David of Walworth County was charged with four felony counts of fraudulent writings, one felony count of unauthorized use of identifying information for financial gain, and one felony count of theft (later amended to two misdemeanor counts of theft) in Waukesha County Circuit Court. David was also charged with three counts of selling intoxicating liquor without a license in Walworth County Circuit Court. David pleaded guilty to the two counts of theft in Waukesha County Circuit Court and one count of selling liquor without a license in Walworth County Circuit Court.

The criminal complaints allege that David misled his employer, a permitted liquor wholesaler, by creating false invoices that showed sales of wine to a liquor store that was a customer of his employer. These sales were never made to the liquor store. Instead, it was alleged that David sold that wine to individuals, oftentimes personally delivering it to the buyers' homes. The buyers would pay David directly and David allegedly kept the proceeds of the sale, resulting in a financial loss to his employer.

Wisconsin laws prohibit sales of alcohol beverages to individual consumers without holding the appropriate retail alcohol beverage license. Additionally, Wisconsin laws prohibit alteration of business records and theft of property. These cases were investigated solely by DOR's Alcohol & Tobacco Enforcement Unit and were prosecuted by the Wisconsin Department of Justice.

On Tap Soon!

The department is actively working on the following implementation items:

1. All existing and new permit applications will be updated. Certain permit applications that were previously combined will become separate permit applications.
2. The new operator's permit, effective January 1, 2025, will only be available through an online application submitted through the department's My Tax Account portal.
3. The new common carrier and fulfillment house permittee monthly transaction reports, effective January 1, 2025, will be able to be filed using XML Schema or the department's My Tax Account portal.

Upcoming Effective Dates:

January 1, 2025

January 1, 2026

- Fulfillment Houses are required to hold a state-issued permit.
- Common Carriers are required to hold a state-issued permit.
- Operator's Permits are available.
- Cooperative wholesaler applications are available and small manufacturers may be authorized to participate in cooperative wholesalers.

- No-Sale Event Venues are required to hold a state-issued permit or be licensed.
- Qualifying Event Venue Certification opens.

Clerk's Corner: Reporting Licenses

Annually by July 15, municipal clerks must submit a [Municipal Retail License Report](#) (Form AT-827) to the Wisconsin Department of Revenue. This informational report describes all alcohol beverage retail licenses issued by each municipality in the state. The following updates were made to the form due to law changes in 2023 Wisconsin Act 73.

New License Type

In addition to alcohol beverage licenses, the form now requires municipalities to list licenses issued to cigarette, tobacco products, and electronic vaping device retailers. This new license type was added to the existing form so that clerks only have to enter a business once and then check a box to indicate the types of retail licenses issued to that business.

Updated Fields

Expect to see several new fields on Form AT-827 specific to cigarette, tobacco product, and electronic vaping device licensing, including fields for types of products sold and method of sale.

You may also notice the "Class B" wine-only license has been removed. This field is obsolete since wineries may no longer hold any municipally issued alcohol beverage license.

Online Publication

In addition to the changes to Form AT-827, Wisconsin law requires DOR to publish municipal retail licenses. Your reported alcohol beverage licenses are posted on our website under the [Retail Alcohol Beverage License Search](#). A similar web page will be published after the July 15 reporting deadline to show cigarette, tobacco, and electronic vaping device licenses reported to DOR. Keep in mind that the published list can be quickly amended by resubmitting an updated Form AT-827 at any time.

Legislative Update

2023 Wisconsin Act 73 created a new permit that authorizes common carriers to ship wine directly to Wisconsin consumers. Starting January 2025, common carriers must have a permit from the Division of Alcohol Beverages to transport or deliver wine from a wine direct shipper or fulfillment house permittee to customers in Wisconsin. The permit has an annual fee of \$1,000. Act 73 also provides that common carriers must submit monthly shipping reports to the Division of Alcohol Beverages.

On March 21, 2024, Governor Evers signed [2023 Wisconsin Act 146](#) which clarifies that the Division of Alcohol Beverages may revoke a common carrier's permit if they engage in repeated and negligent transportation and shipping practices involving alcohol beverages. Additionally, Act 146 modifies the monthly reporting requirements so that common carriers do not have to report the name and address of the person that manufactured the alcohol beverages unless the manufacturer is the consignor of the shipment. Common carriers must also report the weight of the alcohol beverages shipped rather than the type and quantity of the alcohol beverages. These changes, along with the permit, take effect in January 2025.

(Secs. 125.22 and 125.535(7), Wis. Stats.)

Freshly Bottled

The department has been working to create new guidance and forms for the regulated community. Here's a list of what's new!

[Retail License Renewal Common Questions](#)

[Producer Full-Service Retail Sales Common Questions](#)

[Video: Understanding Form AB-105](#)

[Publication 302](#), *Information for Wisconsin Alcohol Beverage and Tobacco Retailers*

Effective Now!

As you know, last year Governor Evers signed 2023 Wisconsin Act 73, resulting in significant law changes. Many of the changes made in Act 73 are now in effect, including the launch of the new division.



Producers

- Retail licenses issued to producers are expired and non-renewable.
- Producers may sell products made on the production premises as a condition of their state-issued permit.
- Producers may apply for full-service retail sales authorization.
 - [Here is the FAQ](#) for more information on this change.
- Licensed operators are required to supervise sales and service of alcohol beverages at all production and off-site locations.
- Closing hours for "Class B" licensees apply to all sales and service of alcohol beverages at producer-tier businesses.
- Brewpub self-distribution limit is increased to 2,000 barrels.
- Brewpub production limit is increased to 20,000 barrels.
- The limit on how many manufacturers' or rectifiers' permits one person may hold is repealed.

Shippers

- Wine Direct Shippers are only authorized to ship wine that has been manufactured or bottled by the permittee directly to consumers.

Distributors

- Wholesaler permits may be transferred to any location in Wisconsin.
- The limit on how many intoxicating liquor wholesaler permits one person may hold is repealed.

Retailers

- Penalties for possessing beer purchased from an unauthorized source are changed to be more consistent with penalties applying to unauthorized purchase of intoxicating liquor.
- "Class C" Wine-Only licenses may be issued to anyone otherwise qualified to hold an alcohol beverage license. A person holding this license is no longer required to operate a restaurant on the premises.
- "Class B" licensees may prepare batch cocktails in advance with proper container sizes and labeling restrictions (see Form [AB-901](#), *Premixed Drink Label*).
- Reserve "Class B" liquor licenses may be transferred between municipalities within the same county.
- Municipalities no longer need to be contiguous or within two miles of each other.
- Axe-throwing facilities are eligible to hold "Class B" Beer and "Class B" liquor licenses.
- Safe Ride Program information is included in the [publication](#) for retailers.

Now Serving: Full-Service!

On May 1, alcohol beverage producers in Wisconsin experienced big changes relating to retail sales authorization on and off the production premises. Local licenses that were issued to breweries, wineries, manufacturers, and rectifiers expired and producers were able to apply for full-service retail sales authorization from the Division of Alcohol Beverages for the first time.

In the first three days the application (Form AB-105) was available on our website, the Division of Alcohol Beverages received 119 applications. On May 1, 17 staff from all over the department, trained and supported by the Excise Tax Audit Unit, approved and issued 96 permits in one day! This effort was a true test of teamwork, and we're proud of the collaboration that made it possible to get such a volume of applications approved so efficiently and accurately.

Overall, applicants did an excellent job of reading the instructions and properly filling out the new application Form AB-105. Here are a few tips based on common errors we saw:

1. Part A, Box 1, "Legal Business Name" is the registered legal name of the business that holds the production permit. This name might end with LLC or Inc. as appropriate.
2. Part A, Box 2, "Business Name or DBA" is the trade name of the business that holds the production permit. This is the advertised name that customers know your business by. It may appear on your marketing materials, website, or sign on the building. If you do not have a "Business Name or DBA," use the legal name you entered in Part A, Box 1.
3. Part A, Box 3, "Agent Name" is for you to list the appointed agent for your production premises, not the Special Agent from the Division that serves your region. Every limited liability company and corporation must have an appointed agent.
4. Part A, Box 6, "Wisconsin Producer Permit Number" is the 15-digit Wisconsin Tax Account Number located on your production permit. It will begin with one of the following prefixes: 309, 312, 313, or 315.

Form AB-105 is posted online as a fillable PDF. To avoid writing by hand, download the form to your computer and type in your responses. Otherwise, please write clearly and provide scanned images of the application that are easy to read. Illegible or poor-quality scans may delay the processing of your application.

If your application for full-service retail sales is approved, the Division will issue a permit you can print and display at the approved premises. You **will not** receive your permit through email. You must access your permit authorization immediately after it is approved by logging into [My Tax Account \(MTA\)](#). Click on **More** and then on **Letters** to find the permit. If you forgot your username or password for MTA, see these [common questions](#) to reset your login information.

To apply for full-service retail sales authorization for a specific premises, submit [Form AB-105](#), *Producer Full-Service Retail Sales Application*. Consider viewing our [instructional video](#) for more details on how to complete the form. Submit Form AB-105 to the Division of Alcohol Beverages by emailing it to DORAlcoholPermits@wisconsin.gov.

OLD FORM	NEW FORM
AT-106, Original Alcohol Beverage License Application	AB-200, Alcohol Beverage License Application
AT-115, Renewal Alcohol Beverage License Application	AB-200, Alcohol Beverage License Application
AT-103/103a, Auxiliary Questionnaire	AB-100, Alcohol Beverage Individual Questionnaire
AT-104, Appointment of Agent	AB-101, Alcohol Beverage Appointment of Agent
AT-200, Appointment of Successor Agent	AB-101, Alcohol Beverage Appointment of Agent
AT-315, Temporary License Application	AB-220, Temporary Alcohol Beverage License Application
AT-108, Retail License Transfer - Person-to-Person	AB-102, Alcohol Beverage License or Permit Transfer Application
AT-112, Retail License Transfer - Place-to-Place	AB-102, Alcohol Beverage License or Permit Transfer Application
NEW FORMS	
AB-104a, Restricted Investor Affidavit - Restricted Individual	
AB-104b, Restricted Investor Affidavit - Restricted Entity	
AB-103, Marriage Affidavit	
AB-105, Producer Full-Service Retail Sales Application	

Impaired Driving and Wisconsin's SafeRide Program



Alcohol Law Changes:

On December 6th, 2023, Governor Evers signed 2023 Wisconsin Act 73 resulting in significant alcohol beverage law changes.

Every industry tier was impacted. One change was providing more information and literature on the SafeRide program to industry members.



About the SafeRide Program:

[2017 Wisconsin Act 125](#) authorized the Department of Transportation to award grants to counties, municipalities and certain nonprofit corporations to cover the costs of transporting individuals suspected of being over the 0.08 blood alcohol concentration limit and should not drive.

The grants are funded by a \$50 surcharge imposed upon certain operating while intoxicated convictions. 2023 Wisconsin Act 73 increases the surcharge to \$75.

Impaired Driving in Wisconsin:

The Department of Revenue encourages all Wisconsinites to prioritize safety behind the wheel. According to the [Department of Transportation](#), in 2022, there were almost 23,000 convictions for operating while intoxicated driving offenses in Wisconsin.

Someone is injured or killed in an impaired driving crash every two hours in Wisconsin. We all have a duty to keep one another safe.

Impaired driving is entirely preventable:

- If you plan to drink, identify a sober driver.
- If you feel buzzed, you are likely over the 0.08 limit and should not drive.
- Save a life – don't let your friends drive drunk. If you suspect someone is above the legal limit, don't let them get behind the wheel.
- If you see an impaired driver, collect as much information you can, then call 911.
- Some taverns and restaurants have programs to provide patrons with a safe ride home.

For more information, visit: www.tlw.org/saferide.