

# DOR on Tap

An Alcohol Industry Update

August 2024

In July, The Division of Alcohol Beverages said goodbye to Special Agent Rick Uhlig who is happily starting his retirement. Based in the Appleton office, Rick worked in law enforcement for 35 years; five in the State Patrol and thirty as a member of the DOR Alcohol and Tobacco Enforcement Unit. His knowledge of the law, steady hand, and wit will be missed by the clerks and business owners in the Fox Valley and the team here at DAB. We are grateful for Rick's many years of service to the people of Wisconsin.

We are excited to announce that Tyler Quam (you may have heard of him), has been promoted and will serve as the Enforcement Bureau Director here in the Division of Alcohol Beverages. Tyler has worked at the Department for over 20 years. He is an expert on alcohol beverage law and regulation. He has demonstrated his capable, thoughtful leadership style through his time as Special Agent in Charge. These skills were on full display as he transitioned the team to the new division in the last few months. He is a skilled law enforcement professional and excellent communicator with stakeholders and staff alike. His commitment to building relationships, early identification of trends and practices, and clear communication about laws and regulations make him the perfect addition to the management team at DAB.

Our top priorities for the Division are to get fully staffed and keep our administrative rules process moving. When a new law is passed, agencies propose administrative rules that describe how the agency will implement the details of the new law. Expect the opportunity to weigh in and offer your view on administrative rules formally in the next few months. We look forward to significant engagement from our stakeholder organizations this fall.

This edition of DOR on Tap will highlight updated guidance, provide information on upcoming effective dates, and more!

## Applicable Laws and Rules

This document provides statements or interpretations of Wisconsin statutes and administrative rules enacted as of August 30, 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 Guidance issued prior to this date that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis.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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## 2025 Vintage

The following provisions of 2023 Act 73 go into effect on January 1, 2025:

**Permit Fee Increases:** The Act imposes a \$500 annual permit fee (\$1,000 biennial fee) for all alcohol beverage permits that did not have fees established prior to January 1, 2025. Permit fees are the subject of administrative rulemaking to establish alternate fees before the effective date of the new statute. Industry members will have the opportunity to provide feedback on this topic at public hearings in the future.

**Shipping Wine into Wisconsin:** Holders of a direct wine shipper permit under sec. 125.535, Wis. Stats., may ship wine manufactured or bottled by the permittee directly to an individual in Wisconsin. Effective January 1, 2025, direct wine shipper permittees may arrange with a fulfillment house permittee to ship wine on the permittee's behalf. In addition, all containers of wine shipped directly to individuals in this state shall be shipped using a common carrier holding a permit.

**Common Carriers:** Common Carrier permits authorize the holder to transport or deliver wine on behalf of a fulfillment house or direct wine shipper permittee to individuals located in Wisconsin.

- Application forms will be available this fall.
- The permit fee is \$2,000 biennially.
- The permittee must also hold a valid Business Tax Registration certificate.

Beginning January 1, 2025, all wine transported into Wisconsin and delivered to individuals in this state must be carried by permitted common carriers. Wine transported or delivered to individuals in this state by unpermitted entities will be subject to civil forfeiture. Shipments of alcohol beverages other than wine are not allowed to be shipped direct to consumer.

**Fulfillment Houses:** Fulfillment house permits authorize the holder to provide warehousing, packaging, order fulfillment, and shipment of wine produced by and belonging to a person holding a direct wine shipper's permit.

- Application forms will be available this fall.
- The permit fee is \$200 biennially for each location from which the authorized activities will occur.
- The permittee must also hold a valid Business Tax Registration certificate.

**Small Cooperative Wholesalers:** The Act opened membership in small cooperative wholesalers to small manufacturers and rectifiers, in addition to wineries. Small manufacturers and rectifiers produce less than 50,000 gallons of intoxicating liquor other than wine in a calendar year and are certified by the division.

Small cooperative wholesalers are created by DAB-certified producers (wineries, manufacturers, rectifiers) to sell and distribute intoxicating liquor created by its members.

- The Division will begin issuing certifications for small manufacturers and rectifiers by January 1, 2025.
- Application forms for small cooperative wholesalers will be available this fall.
- Small cooperative wholesalers have a limited time to form. Cooperative wholesalers' permits must be issued by August 1, 2025.
- No more than six cooperative wholesalers may be permitted under Wisconsin law.

**Operator's (Bartender's) Permits:** Operator's (Bartender's) permits authorize the same activities as operator's licenses issued by municipalities, except the holder of the permit may engage in the authorized activities in any municipality in the state.

- To apply for an operator's permit applicants will use My Tax Account, the department's online web portal, beginning this winter.

## Outreach on the Way

The Division of Alcohol Beverages (DAB) has prioritized outreach efforts to stakeholders to provide education on the law changes associated with Act 73. These alcohol beverage law changes were unprecedented and affected every tier of the industry in several ways. Here is where we have been and where we will be in the future:

### February 2024

- Gateway Technical College
- City of Milwaukee
- City of Kenosha

### March 2024

- City of Wauwatosa

### April 2024

- Wisconsin Towns Association – Sheboygan County
- Tavern League of Wisconsin Spring Conference
- Statewide Clerks Q&A Webinar
- Village of Cottage Grove
- Wisconsin Municipal Clerks Association District 4 Clerks
- Sheboygan County Municipal Clerks
- City of Eau Claire
- UW Extension – Local Government Webinar

### May 2024

- Wisconsin Municipal Clerks Association Districts 1 & 2
- Winery Association
- Wisconsin Municipal Clerks Association District 8
- Wisconsin Municipal Clerks Association District 5
- Distillers Guild
- Lake Geneva Alcohol Beverage Retailers
- Wisconsin Municipal Clerks Association District 7
- City of La Crosse
- Wisconsin Municipal Clerks Association District 3
- Metro Milwaukee Clerks

### July 2024

- UW-Green Bay Clerks Institute
- Wisconsin Apple Growers Association

### August 2024

- Clear Lake
- Wisconsin Municipal Clerks Association Annual Conference

### October 2024

- Wisconsin Alcohol Policy Project Annual Policy Seminar

To request a speaker from DAB to attend your next conference or meeting, please fill out our [online form](#).

## Full-Service Authorization Quick Hits

### Renewal of full-service retail authorizations

Full-service retail sales are an authorization of a production permit (brewer, winery, manufacturer & rectifier). For this reason, full-service retail sales approvals issued for the production premises or an off-site outlet will be renewed with the production permit. Expiration dates printed on these full-service retail sales approvals match the production permit. Follow the instructions to renew the production permit to renew all full-service retail sales. Updated approval documents will be available in My Tax Account after the production permit has been renewed.

### Complaints against full-service retail locations

The Wisconsin Division of Alcohol Beverages is the issuing authority for all producer full-service retail locations. Any complaints of law violations, including those from municipalities, should be directed to the Division. These complaints may be submitted to the email address listed at the bottom of this newsletter or through DAB's [complaint form](#).

## Full-Service Authorization Quick Hits, Continued

### Common errors submitting Form AB-105, *Producer Full-Service Retail Sales Application*

Errors on AB-105 applications can result in processing delays or returned applications. Some common errors include:

**Permit numbers** –Correctly copy permit numbers from permit documents or My Tax Account.

- **Agent** – LLCs and corporations must appoint an agent for their production permit. List that person on this form, not a DAB employee.
- **Addresses** – Address must be correct. Pay attention to which address you are putting in each field.
- **Premises description** – These descriptions must be specific and particularly describe the land and buildings where sales will be made. Vague descriptions or those overlapping with alcohol beverage retail licenses or permits will be returned.
- **Municipal approval** – Retail outlets away from the production premises require municipal approval. Applications without the required approvals and signatures from municipal officials will be returned.

## Shaken, Stirred, or On the Rocks

### *Sales Tax on Retail Sales of Alcohol Beverages*

Recently, the department received complaints that bars and restaurants are incorrectly charging sales tax on sales of alcohol beverages. Sometimes the receipt shows sales tax as a separate charge, and other times it doesn't.

Retail sales of alcohol beverages are subject to sales tax, regardless of whether sold at a barstool or table or whether sold at retail by an approved producer or licensed bar or restaurant.

Wisconsin law allows retailers to show that they are collecting sales tax from a customer by notifying the customer in one of the following ways:

1. Providing the customer a receipt that separately itemizes the tax or states, "Price Includes Sales Tax."
2. Conspicuously posting the bracket system card, [Form S-213](#), issued by the department.
3. Conspicuously posting a sign that states, "Prices Include Sales Tax."

It is common for bars to have a sign behind the bar that says, "Price Includes Sales Tax" and a patron will pay a flat dollar amount for a drink. This is often done in bars that have many cash-paying patrons so that bartenders do not have to handle coins for change.

**Example:** Tavern, located in a county that has a combined 5.5% Wisconsin state and county sales tax rate, conspicuously posts a sign stating, "Prices Include Sales Tax." Tavern sells a beer for \$5.00 to a patron and collects \$5.00 cash. The sales price of the beer is \$4.74, and the sales tax collected from the customer is \$0.26. Tavern is required to report taxable sales of \$4.74 for both state and county taxable sales on its Wisconsin sales tax return.

It is also common for bars and restaurants to provide a receipt to their customers with the sales tax separately stated on the receipt.

**Example:** Restaurant, located in a county that has a combined 5.5% Wisconsin state and county sales tax rate, sells a beer for \$5.00 to a customer. Restaurant provides customer a receipt showing \$5.00 sales price for beer plus \$0.28 sales tax for a total amount of \$5.28. Restaurant is required to report taxable sales of \$5.00 for both state and county taxable sales on its Wisconsin sales tax return.

Bars and restaurants may use both sales tax methods at the same establishment. For example, a restaurant may have separate areas for their bar and dining areas with two different cash registers or point-of-sales systems. In such cases, customers may be confused as to why a receipt for alcohol beverage sales in one area shows sales tax on the receipt and in the other area the receipt does not show sales tax. To help mitigate the confusion with customers, bars and taverns that post a sign that states, "Prices Include Sales Tax" should make sure the sign is clearly visible to their customers.

See Part III.C.13. & 14. in [Publication 236](#), *Restaurants and Bars* for additional information.



# Fresh: A Menu of Updated Guidance and Forms



**NEW OLD FASHIONED:** The [alcohol beverage landing page](#) has been getting a ton of fresh content in the last few months!



**MARTINI WITH A TWIST:** [License forms](#) have been updated and posted. These forms are primarily for retail licensee and municipal use.



**PREMIXED PARTY PUNCH:** Check out Form [AB-901](#), *Premixed Drink Label*, if you're a "Class B" retail licensee that wants to prepare batch cocktails ahead of time. You must label your drinks in accordance with sec. [125.51\(3\)\(bg\)\(3\)](#), Stats. Let this label do the work for you! It's a fillable PDF and calculates the expiration date and time.



**MODERN MOJITO:** Interest restriction requirements between tiers of the alcohol beverage industry changed with passage of Act 73. If you're a restricted investor or a married couple where one spouse has an interest in a different tier of the industry than the other, you might need Forms [AB-103](#), *Marriage Affidavit*, [AB-104a](#), *Restricted Investor Affidavit - Restricted Individual*, or [AB-104b](#), *Restricted Investor Affidavit – Restricted Entity*. These forms are available on the [licensee](#) and [permittee](#) forms pages.



**GIM(ME)LET:** Interested in applying for full-service retail sales? Use [Form AB-105](#), *Producer Full-Service Retail Sales Application*. Here is a [video](#) that shows how to prepare and submit it correctly. Have questions about full-service retail sales? Check out these [frequently asked questions](#) to see if they wet your whistle.

Additional questions can be directed to [DORAlcohol@wisconsin.gov](mailto:DORAlcohol@wisconsin.gov), where our properly licensed operators will pour you some guidance on a first-come, first-served basis.