

# State of Wisconsin



2023 Senate Bill 268

Date of enactment: **December 6, 2023**  
Date of publication\*: **December 7, 2023**

## 2023 WISCONSIN ACT 73

AN ACT *to repeal* 125.06 (13), 125.28 (2) (e), 125.29 (2) (b) 1. and 2., 125.29 (3) (g), 125.51 (3) (am), 125.51 (3m) (a), 125.52 (7) and 125.68 (4) (c) 3m.; *to renumber* 125.02 (16), 125.04 (8), 125.29 (2) (b) 3., 125.58 (2) and 565.02 (8) (e); *to renumber and amend* 125.02 (6), 125.045 (2), 125.045 (3), 125.09 (1), 125.29 (3) (h), 125.30 (3), 125.33 (9), 125.52 (1) (b) 1., 125.52 (1) (b) 2., 125.53 (1), 134.65 (1), 134.65 (1m) and 565.02 (8) (f); *to amend* 40.02 (48) (am) 19., 40.02 (48) (c), 71.78 (1), 71.78 (4) (b), 71.78 (5), 71.78 (6), 72.06, 73.031, 77.61 (5) (b) 2., 77.61 (5) (c), 77.61 (5) (d), 78.80 (3), 125.02 (12), 125.02 (13), 125.02 (14m), 125.02 (23), 125.025 (3), 125.03 (title), 125.03 (1) (a), 125.03 (1) (b), 125.03 (2), 125.04 (3) (a) (intro.), 125.04 (3) (a) 1., 125.04 (3) (b), 125.04 (3) (bm) (intro.), 125.04 (3) (c), 125.04 (3) (d) 1., 125.04 (3) (d) 2., 125.04 (3) (e) 2., 125.04 (3) (h), 125.04 (3) (j), 125.04 (4), 125.04 (5) (a) 5., 125.04 (5) (d) 1., 125.04 (5) (d) 2., 125.04 (5) (d) 3. a., 125.04 (6) (g), 125.04 (8) (title), 125.04 (8) (b), 125.04 (12) (a), 125.045 (title), 125.045 (1), 125.045 (2) (a), 125.06 (1), 125.06 (3g), 125.06 (11m), 125.07 (1) (b) 4., 125.07 (3) (a) 3., 125.07 (3) (a) 10., 125.07 (3) (a) 16., 125.07 (4) (f) 3., 125.105 (1), 125.12 (1) (a), 125.12 (1) (c), 125.12 (4) (title), 125.12 (4) (ag) (intro.), 125.12 (5) (title), 125.12 (5) (a), 125.12 (5) (b), 125.12 (5) (c), 125.12 (6) (a), 125.12 (6) (b), 125.12 (6) (c), 125.12 (6) (cm), 125.12 (6) (d), 125.12 (6) (dm), 125.12 (6) (e), 125.13, 125.14 (2) (c), 125.14 (2) (d), 125.14 (2) (e), 125.14 (2) (f), 125.14 (3) (b), 125.145, 125.15 (1), 125.17 (6) (a) (intro.), 125.19 (1), 125.20 (5) (c) and (d), 125.26 (2m), 125.26 (2s) (b), 125.27 (1) (a), 125.27 (2) (a) 1. (intro.), 125.27 (2) (a) 2., 125.27 (3) (b), 125.27 (5) (b) and (f), 125.275 (1), 125.275 (2) (b), 125.275 (3), 125.28 (1) (a), 125.28 (1) (b), 125.28 (2) (b) (intro.), 125.28 (2) (b) 1. a., 125.28 (2) (b) 1. b., 125.28 (2) (b) 1. c., 125.28 (2) (b) 2., 125.28 (4), 125.28 (5) (b), 125.28 (5) (d) 3., 125.28 (5) (e), 125.29 (1), 125.29 (3) (intro.), 125.29 (3) (c), 125.29 (3) (e), 125.29 (3) (f), 125.29 (3) (i), 125.29 (6), 125.295 (1) (intro.), 125.295 (1) (a), 125.295 (1) (g), 125.295 (2) (a) 1., 125.295 (2) (a) 2., 125.295 (2) (a) 4., 125.295 (2) (a) 6. (intro.), 125.295 (2) (a) 6. a., 125.295 (2) (a) 6. b., 125.295 (2) (a) 6. c., 125.295 (2) (b), 125.295 (2) (c), 125.295 (4), 125.295 (5), 125.30 (1), 125.30 (2), 125.30 (4), 125.30 (5), 125.32 (2), 125.32 (6) (a), 125.33 (2) (a), 125.33 (2) (d), 125.33 (12), 125.34 (6), 125.51 (1) (a), 125.51 (2) (am), 125.51 (2) (e) 3., 125.51 (3) (a), 125.51 (3) (b), 125.51 (3) (bm), 125.51 (3) (bs) 2., 125.51 (3) (f), 125.51 (3m) (c), 125.51 (3r) (a) 3., 125.51 (3r) (b), 125.51 (4) (a) 1., 125.51 (4) (e) 1., 125.51 (5) (a) 1., 125.51 (5) (a) 4., 125.51 (5) (b) 2., 125.51 (5) (b) 4., 125.51 (5) (c) 1., 125.51 (5) (d) 2., 125.51 (5) (f) 2. and 5., 125.52 (1) (a), 125.52 (2), 125.535 (1), 125.535 (2), 125.535 (3) (b) 2., 125.535 (3) (c), 125.54 (1), 125.54 (3), 125.54 (5), 125.54 (6), 125.54 (7) (a) 2., 125.54 (7) (c) 3., 125.54 (7) (d), 125.545 (title), 125.545 (1) (a), 125.545 (1) (d), 125.545 (1) (e), 125.545 (2) (a) 1., 125.545 (2) (a) 3. b., 125.545 (2) (b), 125.545 (2) (c), 125.545 (3) (a) 1., 125.545 (3) (a) 2., 125.545 (3) (b), 125.545 (3) (c), 125.545 (4), 125.545 (5), 125.545 (6) (title) and (a) 1. and 2., 125.545 (6) (a) 1., 125.545 (6) (a) 3., 125.545 (6) (a) 4., 125.545 (6) (b), 125.545 (7), 125.55 (1), 125.56 (2) (a), 125.56 (2) (c), 125.56 (2) (d), 125.58 (1), 125.60 (1), 125.61 (1), 125.61 (3), 125.61 (4), 125.62 (1), 125.62 (3), 125.63 (1), 125.63 (3), 125.65 (1), 125.65 (4) (intro.), 125.65 (4) (e), 125.65 (6), 125.65 (10), 125.68 (2), 125.68 (4) (c) 1., 125.68 (4) (c) 3., 125.68 (9) (f), 125.68 (10)

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

ture, as provided under s. 13.172 (2), regarding the status of the directory maintained under sub. (6), manufacturers and electronic vaping devices included in the directory, revenue and expenditures related to administration of this section, and enforcement activities undertaken pursuant to this section.

**SECTION 64b.** Tax 8.87 of the administrative code is repealed.

**SECTION 64c. Nonstatutory provisions.**

(1) TRANSFER OF ALCOHOL BEVERAGES REGULATION AND ENFORCEMENT FUNCTIONS.

(a) *Definitions.* In this subsection:

1. "Department" means the department of revenue.
2. "Division" means the division of alcohol beverages in the department.
3. "Secretary" means the secretary of revenue.

(b) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department primarily related to alcohol beverages regulation and enforcement under ch. 125, as determined by the secretary, become the assets and liabilities of the division.

(c) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the department that is primarily related to alcohol beverages regulation and enforcement under ch. 125, as determined by the secretary, is transferred to the division.

(d) *Contracts.* All contracts entered into by the department in effect on the effective date of this paragraph that are primarily related to alcohol beverages regulation and enforcement under ch. 125, as determined by the secretary, remain in effect and are transferred to the division. The division shall carry out any obligations under those contracts unless modified or rescinded by the division to the extent allowed under the contract.

(e) *Position and employee transfers.* On the effective date of this paragraph, all positions, and the incumbent employees who hold those positions, in the department with duties that are primarily related to alcohol beverages regulation and enforcement under ch. 125, as determined by the secretary, are transferred to the division.

(f) *Employee status.* Employees transferred under par. (e) have all the rights and the same status under ch. 230 in the division that they enjoyed in the department immediately before the transfer. Notwithstanding s. 230.28 (4), no employee transferred under par. (e) who has attained permanent status in class is required to serve a probationary period.

(g) *Rules and orders.* All rules promulgated by the department that relate to alcohol beverages regulation and enforcement under ch. 125 and that are in effect on the effective date of this paragraph remain in effect until their specified expiration dates or until amended or repealed by the division. All orders issued by the department that relate to alcohol beverages regulation and enforcement under ch. 125 and that are in effect on the

effective date of this paragraph remain in effect until their specified expiration dates or until modified or rescinded by the division.

(h) *Pending matters.* Any matter pending with the department on the effective date of this paragraph that is primarily related to alcohol beverages regulation and enforcement under ch. 125, as determined by the secretary, is transferred to the division. All materials submitted to or actions taken by the department with respect to the pending matters are considered as having been submitted to or taken by the division.

(i) *Fees.* All fees established by the department related to permits issued under ch. 125 that are in effect on the day before the effective date of this paragraph shall remain in effect until modified or rescinded by the division.

(j) *Secretary to develop plan for orderly transfer.* The secretary shall develop a plan for an orderly transfer from the department to the division and shall resolve any disagreement between the department and the division with respect to any matter specified in this subsection. The secretary's plan for orderly transfer shall include the transfer of positions under par. (e) plus the transfer of a sufficient number of currently vacant authorized FTE positions in the department to total 20.0 FTE positions in the division as well as initial staffing assignments in the division.

(2) TRANSITION; PERMIT ISSUER. On the effective date of this subsection, any permit issued by the department of revenue under ch. 125 prior to the effective date of this subsection shall be considered to have been issued by the division of alcohol beverages.

(3) EXPIRATION OF RETAIL LICENSES HELD BY PRODUCERS. Notwithstanding s. 125.04 (11) (b), any retail license issued under ch. 125 to a winery or a brewer shall expire on the effective date of this subsection and the license shall be nonrenewable.

(4) RETAIL CLOSING HOUR EXCEPTION FOR 2024 NATIONAL POLITICAL CONVENTION.

(a) In this subsection:

1. "Convention period" means the period beginning on the first day of a national political convention held in Milwaukee in the summer of 2024 until the day after the convention's last day.

2. "Municipality" has the meaning given in s. 125.02 (11).

3. "Southeast Wisconsin municipality" means a municipality any part of which is located within Kenosha, Racine, Walworth, Rock, Milwaukee, Waukesha, Jefferson, Dane, Ozaukee, Washington, Dodge, Columbia, Sheboygan, or Fond du Lac County.

(b) 1. Notwithstanding s. 125.32 (3) (a), but subject to subs. 2. and 3., during the convention period, the closing hours for premises operating under a Class "B" license issued by a southeast Wisconsin municipality shall be between 4 a.m. and 6 a.m.

2. A southeast Wisconsin municipality may establish a process to designate, and may so designate, any licensee holding a license issued by the southeast Wisconsin municipality and to which subd. 1. would otherwise apply as ineligible or disqualified for the extended closing hour specified in subd. 1.

3. Notwithstanding s. 125.32 (3) (d), a southeast Wisconsin municipality may, by ordinance adopted after the effective date of this subdivision, opt out of subd. 1. and retain during the convention period the closing hours specified in s. 125.32 (3) (a).

(c) 1. Notwithstanding s. 125.68 (4) (c) 1., but subject to subds. 2. and 3., during the convention period, the closing hours for premises operating under a "Class B" or "Class C" license issued by a southeast Wisconsin municipality shall be between 4 a.m. and 6 a.m.

2. A southeast Wisconsin municipality may establish a process to designate, and may so designate, any licensee holding a license issued by the southeast Wisconsin municipality and to which subd. 1. would otherwise apply as ineligible or disqualified for the extended closing hour specified in subd. 1.

3. Notwithstanding s. 125.68 (4) (c) 5., a southeast Wisconsin municipality may, by ordinance adopted after the effective date of this subdivision, opt out of subd. 1. and retain during the convention period the closing hours specified in s. 125.68 (4) (c) 1.

(d) 1. Notwithstanding ss. 125.29 (8) (a), 125.52 (5) (a), and 125.53 (4) (a), but subject to subds. 2. and 3., during the convention period, the closing hours for a full-service retail outlet under s. 125.29 (7), 125.52 (4), or 125.53 (3), and the on-premises sales hours on brewery premises, manufacturing or rectifying premises, and winery premises, operating in a southeast Wisconsin municipality shall be between 4 a.m. and 6 a.m.

2. A southeast Wisconsin municipality may establish a process to designate, and may so designate, premises in the municipality of any permittee under s. 125.29, 125.52, or 125.53 to which subd. 1. would otherwise apply as ineligible or disqualified for the extended closing hour specified in subd. 1.

3. A southeast Wisconsin municipality may, by ordinance adopted after the effective date of this subdivision, opt out of subd. 1. and retain during the convention period the closing hours specified in ss. 125.29 (8) (a), 125.52 (5) (a), and 125.53 (4) (a), as unaffected by par. (b).

(5m) **TRANSITION; INITIAL IMPLEMENTATION AUTHORITY.** The administrator of the division of income, sales and excise tax in the department of revenue shall have interim authority to undertake all measures necessary to implement the changes in this act by the effective date of each change, including taking action in preparation for the creation of a division of alcohol beverages and appointment of a division administrator and bureau directors.

#### **SECTION 64d. Initial applicability.**

(1) **SAFE RIDE SURCHARGE.** The treatment of s. 346.657 (1) first applies to violations committed on the effective date of this subsection.

(2) **JURISDICTION OVER OUT-OF-STATE PERMITTEES.** The treatment of s. 125.535 (3) (b) 3., (c), (d), and (e), the renumbering of s. 125.58 (2), the renumbering and amendment of s. 125.30 (3), the amendment of s. 125.30 (2), and the creation of ss. 125.30 (2) (d) and (3) (b) and 125.58 (2) (b) and (c) first apply with respect to permits issued after the effective date of this subsection.

**SECTION 65. Effective dates.** This act takes effect on the first day of the 5th month beginning after publication, except as follows:

(1) **RETAIL SALE OF ELECTRONIC VAPING DEVICES.** The treatment of ss. 134.65 (title), (1), (1g), (1r), (2m), (3m), (4), (5m), and (8) and 134.66 (1) (g), the renumbering and amendment of s. 134.65 (1m), and the creation of s. 134.65 (1m) (a) 1. and 2. and (b) take effect on the 90th day after the day of publication.

(2m) **DOR ENFORCEMENT; ALCOHOL VAPOR DEVICES.** The treatment of ss. 40.02 (48) (am) 19. and (c), 71.78 (1), (1g), (4) (b) and (v), (5), and (6), 71.83 (6), 72.06, 73.03 (51b), 73.031, 77.61 (5) (am), (b) 2. and 15., (c), and (d), 78.80 (3), 125.02 (1c), 125.09 (8), 134.65 (1a), 139.11 (4) (a) (intro.), 139.38 (6), 139.44 (2), (2m), and (8) (a), (am), (b), (c), and (d), 139.82 (6), 230.36 (1m) (b) 2. (intro.) and (2m) (a) 9., 565.01 (6c), 565.02 (9) (intro.), 565.17 (5) (a) and (d), 565.40 (title) and (4), 565.50 (2), (2m), (3), and (4), 946.82 (4), and 995.15, the renumbering of s. 565.02 (8) (e), and the renumbering and amendment of s. 565.02 (8) (f) take effect on the day after publication.

(3m) **TRANSITION; INITIAL IMPLEMENTATION AUTHORITY.** SECTION 64c of this act takes effect on the day after publication.

(4m) **FULFILLMENT HOUSES AND COMMON CARRIERS.** The treatment of ss. 125.02 (6d), 125.025 (3) (by SECTION 21m), 125.12 (5) (a) (by SECTION 25L), 125.22, 125.23, 125.535 (7), 125.68 (10) (a) and (b), 139.08 (5), and 139.11 (1) (by SECTION 40o) and (4) (b) 2. takes effect on the first day of the 13th month beginning after publication.

(5m) **NEW PERMIT FEES.** The treatment of s. 125.04 (8) (title), the renumbering of s. 125.04 (8), and the creation of s. 125.04 (8) (b) take effect on the first day of the 13th month beginning after publication.

(6m) **COOPERATIVE WHOLESALERS.** The treatment of ss. 125.545 (title), (1) (a), (ar), (cm), (d), (e), and (em), (2) (a) 1., 3. b., and 4., (b), and (c), (3) (a) 2. (by SECTION 26hc) and 2m., (b), and (c), (4), (6) (a) 1. (by SECTION 26hk), 2m., 3m., and 4. (by SECTION 26hq), and (7) (by SECTION 26ht) and 185.043 (2) (by SECTION 49d) takes effect on the first day of the 13th month beginning after publication.

(7m) **OPERATOR'S PERMIT.** The treatment of ss. 125.02 (14m) (by SECTION 21g), 125.04 (3) (a) (intro.) (by SEC-

