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WISCONSIN LEGISLATIVE COUNCIL STAFF

INFORMATION MEMORANDUM 89-6

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State Capitol
Madison, Wisconsin 53702

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OFFENSES AND PENALTIES RELATING TO UNDERAGE DRINKING

This Information Memorandum outlines current offenses and penalties relating to underage drinking in Wisconsin (the current legal drinking age is 21 years). It also outlines current offenses and penalties relating to the official state identification card.

This Memorandum includes changes in these laws made by 1989 Wisconsin Act 31.

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A. PROVIDING ALCOHOL BEVERAGES TO, OR PERMITTING OR CONTRIBUTING TO THE CONSUMPTION OF ALCOHOL BEVERAGES BY, UNDERAGE PERSONS [s. 125.07 (1) and (4), Stats.]

1. Prohibitions

The following prohibitions apply to persons who provide alcohol beverages to, or permit the consumption of alcohol beverages by, an underage person:

a. No person may procure for, sell, dispense or give alcohol beverages to an underage person, unless the underage person is accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

b. No person with a license to sell alcohol beverages, issued by a municipal governing body, or a permit to sell alcohol beverages, issued by the Department of Revenue (DOR), may sell, vend, deal or traffic in alcohol beverages to or with an underage person, unless the underage person is accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

c. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This prohibition does not apply to alcohol beverages used exclusively as part of a religious service.

d. No adult may intentionally encourage or contribute to an underage person's activities in any of the following: (1) procuring or attempting to procure alcohol beverages; (2) entering, knowingly attempting to enter or being on a premises for which a license or permit for the retail sale of alcohol beverages has been issued, except as described in Section C, 1 of this Memorandum; (3) falsely representing his or her age for the purpose of receiving alcohol beverages from an alcohol beverage licensee or permittee; or (4) consuming or illegally possessing alcohol, except as described in Section D, 1, of this Memorandum.

2. Penalties

Any person who violates any of the prohibitions just described, or a local ordinance which strictly conforms to those prohibitions, is subject to the following penalties:

a. Forfeitures

The person is subject to a forfeiture of:

(1) Not more than \$500 if the person has not committed a previous violation within 12 months of the current violation.

(2) Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the current violation.

b. License suspensions

The court shall suspend any alcohol beverage license or permit issued to the person for:

(1) Not more than three days, if the person committed the violation within 12 months after committing one previous violation.

(2) Not less than three days nor more than 10 days, if the person committed the violation within 12 months after committing two other violations.

(3) Not less than 15 days nor more than 30 days, if the person committed the violation within 12 months after committing three other violations.

The court must promptly provide notice of the suspension of the violator's alcohol beverage license or permit to both the DOR and the clerk of each municipality which issued a license or permit to the person.

B. ALLOWING AN UNDERAGE PERSON TO BE PRESENT IN PLACES SELLING ALCOHOL BEVERAGES [s. 125.07 (3), Stats.]

1. Prohibitions

As described in Section C, 1, of this Memorandum, generally, an underage person may not enter, knowingly attempt to enter or be present on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, unless he or she is accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

2. Penalties

Any alcohol beverage licensee or permittee who allows an underage person to enter or be on a licensed premises, other than as described in Section C, 1, of this Memorandum, is subject to a forfeiture of not more than \$500.

C. PROCUREMENT OF ALCOHOL BEVERAGES BY AN UNDERAGE PERSON; ENTERING LICENSED PREMISES; OR MISREPRESENTING AGE [s. 125.07 (3) (a) and (4) (a), (bs) and (cd), Stats., as Affected by 1989 Wisconsin Act 31]

1. Prohibitions

No underage person may engage in any of the following activities:

- a. Procure or attempt to procure alcohol beverages.
- b. Falsely represent his or her age in order to receive alcohol beverages from an alcohol beverage licensee or permittee.
- c. Enter, knowingly attempt to enter or be on premises licensed to sell alcohol beverages at retail unless accompanied by his or her parent, guardian or spouse who has attained the legal drinking age. This prohibition does not apply to an underage person who enters or is present on the premises as follows:
 - (1) To transact business pertaining to the licensed premises with or for the licensee or the licensee's employe, if the business activities do not constitute the activities of a customer.
 - (2) To purchase edibles or nonalcohol beverages on the premises of a liquor store.
 - (3) If the premises is a hotel, drugstore, grocery store, bowling alley, railroad car, regularly-established athletic field, stadium, specified type of public facility (arena or coliseum and related exposition facilities owned by a county or municipality) or a center for the visual or performing arts.
 - (4) If the premises is in the state fair park, is a concession authorized on state-owned premises in a state park or a state forest, or is a park owned or operated by an agricultural society.

(5) If the premises is a ski chalet, golf clubhouse, racetrack licensed for pari-mutuel betting, curling club, soccer club or private tennis club.

(6) If the premises is operated under both a liquor or beer bar license or permit and a restaurant permit and the principal business conducted is that of a restaurant.

(7) If the premises is a beer or liquor bar; the underage person's purpose is to transact business at an auction or market of secondhand or antique merchandise, art, coins or stamps; and the underage person does not enter or remain in a room where alcohol beverages are sold or furnished.

(8) If the premises is a beer or liquor bar; the underage person is in a location separate from any room where alcohol beverages are sold or served; no alcohol beverages are furnished or consumed by any person where the underage person is present; the municipality issuing the alcohol beverage license for the premises has adopted an ordinance permitting underage persons to enter and remain on such premises; the law enforcement agency responsible for enforcing the ordinance determines that the presence of underage persons will not endanger their health, welfare or safety or that of other community members; and the law enforcement agency issues a written authorization permitting underage persons to be present on the premises.

(9) If the underage person is at least 18 years old and is working under a contract with an alcohol beverage licensee, permittee or corporate agent, to provide entertainment for customers on the premises.

(10) During times when no alcohol beverages are consumed, sold or given away, if the premises is a beer or liquor bar and either the alcohol beverage licensee, its agent if it is a corporation, or a person with an operator's (bartender's) license is on the premises or all alcohol beverages are stored in a locked portion of the premises.

2. Penalties

An underage person who violates these prohibitions is subject to the following penalties:

a. For a first violation, any one or combination of the following:

(1) A forfeiture of not less than \$250 nor more than \$500.

(2) Suspension of the person's motor vehicle operating privilege for 30 to 90 days.

(3) Participation in a supervised work program.

b. For a violation committed within 12 months of a previous violation, any one or combination of the following:

(1) A forfeiture of not less than \$300 nor more than \$500.

(2) Suspension of the person's motor vehicle operating privilege for one year.

(3) Participation in a supervised work program.

c. For a violation committed within 12 months of two or more previous violations, any one or combination of the following:

(1) A forfeiture of \$500.

(2) Revocation of the person's motor vehicle operating privilege for two years.

(3) Participation in a supervised work program.

For the purposes of applying the penalties under this section and Section D of this Memorandum, all violations which arise from the same incident or occurrence shall be counted as a single violation.

D. POSSESSION OR CONSUMPTION OF ALCOHOL BEVERAGES BY AN UNDERAGE PERSON
[s. 125.07 (4) (b), (c) and (cd), Stats., as Affected by 1989 Wisconsin Act 31]

1. Prohibitions

Generally, an underage person who is not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not knowingly possess or consume alcohol beverages. However, an underage person may possess alcohol beverages during his or her working hours if he or she is employed by any of the following:

- a. A brewer.
- b. A fermented malt beverages wholesaler.
- c. An intoxicating liquor, manufacturer, rectifier or wholesaler or a winery.
- d. A facility for the production of alcohol fuel.
- e. A retail alcohol beverage licensee or permittee (beer or liquor store or bar) if: (1) the underage person has an operator's (bartender's) license (operators' licenses may be issued to persons who are at least 18 years of age); (2) the underage person is at least 18 years old and is under the immediate supervision of the licensee or permittee or the licensee's or permittee's agent who is on the premises; or (3) for the delivery of unopened containers to the home or vehicle of a customer.
- f. A campus, if the underage person is at least 18 years of age and is under the immediate supervision of a person who has attained legal drinking age.

2. Penalties

An underage person who possesses or consumes alcohol beverages in violation of the above provisions is subject to the following penalties:

- a. For a first violation, one or any combination of the following:
 - (1) A forfeiture of not more than \$50.
 - (2) Suspension of the person's motor vehicle operating privilege for 30 to 90 days.
 - (3) Participation in a supervised work program.

b. For a violation committed within 12 months of a previous violation, one or any combination of the following:

- (1) A forfeiture of not more than \$100.
- (2) Suspension of the person's motor vehicle operating privilege for one year.
- (3) Participation in a supervised work program.

c. For a violation committed within 12 months of two or more previous violations, one or any combination of the following:

- (1) A forfeiture of not more than \$500.
- (2) Revocation of the person's motor vehicle operating privilege for two years.
- (3) Participation in a supervised work program.

For the purposes of applying the penalties under this Section and Section C of this Memorandum, all violations which arise from the same incident or occurrence shall be counted as a single violation.

E. PROOF OF AGE; IDENTIFICATION CARD [ss. 125.08 and 125.085, Stats., as Affected by 1989 Wisconsin Act 31]

1. Until January 1, 1990

a. Issuance and use of card

Currently, official Wisconsin identification cards are issued by county registers of deeds on a standard form developed by the Attorney General and distributed by the Department of Administration (DOA). Beginning January 1, 1990, identification cards will be issued by the Department of Transportation (DOT), as described under 2, a, below.

Under current law, any person who has attained the legal drinking age of 21 years may apply for an identification card to the register of deeds of the county in which the person resides. Temporary residents of Wisconsin may apply for an identification card in their county of temporary residence. A picture of the applicant must be affixed on the applicant's form and the form must be signed by the applicant and the issuing officer. The form is then sent to the DOA for processing. The DOA returns the processed identification card to the issuing officer for

issuance to the applicant. The fee for an identification card is \$4; the fee for a duplicate of a lost or stolen card is \$5.

Currently, only this identification card or a license or identification card issued by the DOT that contains a photograph of the holder may be recognized as an official identification card in Wisconsin. However, for the purposes of the alcohol beverages laws, in place of an identification card, retail alcohol beverage licenses may require a person to show documentary proof that he or she has attained the legal drinking age and to sign a book, kept for that purpose, if the person's age is in question.

b. Penalties

Any person who has attained the legal drinking age who does any of the following may be fined not less than \$100 nor more than \$500, or imprisoned not less than 10 days nor more than 30 days, or both:

- (1) Makes, alters or duplicates an official identification card;
- (2) Provides an official identification card to a person under the legal drinking age; or
- (3) Knowingly provides other documentation to an underage person which purports to show that the underage person has attained the legal drinking age.

Any person who attained the legal drinking age who, in applying for an identification card, presents false information to an issuing officer may be fined not less than \$100 nor more than \$500, or imprisoned not more than 10 days, or both.

An underage person who does any of the following is subject to a forfeiture of not less than \$100 nor more than \$500:

1. Intentionally carries any of the following items:
 - (a) An official identification card not legally issued to him or her.
 - (b) An official identification card obtained under false pretense.
 - (c) An official identification card which has been altered or duplicated to convey false information.

(d) An identification card or other documentation showing that the underage person has attained the legal drinking age, with knowledge that the documentation is false.

2. Makes, alters or duplicates an official identification card.
3. Presents false information to an issuing officer in applying for an official identification card.
4. Provides to another underage person an official identification card or other documentation purporting to show that the other underage person has attained the legal drinking age with knowledge that the documentation is false.

A law enforcement officer investigating an alleged violation of these provisions by an underage person shall confiscate any identification card or documentation that constitutes evidence of the violation.

2. Effective January 1, 1990

a. Issuance and use of card

Effective January 1, 1990, the official Wisconsin identification card will be a driver's license or other photo identification card issued by the DOT, except that official identification cards issued by the county register of deeds prior to January 1, 1990, may continue to be used.

As under current law, for the purpose of the alcohol beverage laws, in place of the identification card, retail alcohol beverage licensees may require a person to show documentary proof of age and to sign a book kept at the premises if the person's age is in question.

b. Penalties

Penalties for violations related to proof of age and the identification card will be the same on and after January 1, 1990, as the current penalties described under 1, b, above, except that there will be no specific penalty relating to a person who has attained the legal drinking age who presents false information in applying for a card.

Law enforcement offices investigating alleged violations will be required to confiscate any official identification card or other documentation that constitutes evidence of the violation, as under current law.

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