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# *Budget Briefs* from the Legislative Reference Bureau

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## PROVISIONS RELATED TO “UNDERAGE DRINKING”

### I. INTRODUCTION

The biennial state budget act (1997 Wisconsin Act 27), passed by the legislature and signed by Governor Tommy Thompson on October 11, 1997, increased monetary penalties for violations relating to identification cards fraudulently used to evade “underage” drinking laws and creates an exemption from civil liability for establishments and their employees who retain documents presented as proof of age. The governor vetoed a provision that would have required municipal regulations regarding underage and intoxicated persons to conform strictly to the applicable state statutes.

In most instances, the minimum age in Wisconsin for legal consumption of alcohol-containing beverages is 21. (The law contains an exception for underage persons who are accompanied by a parent, guardian or spouse who is at least the legal drinking age.) State law provides for monetary penalties and other sanctions against individuals who, in violation of the legal drinking age: 1) procure or attempt to procure alcohol beverages from a licensee or permittee, 2) possess or consume alcohol beverages on licensed premises, 3) enter or attempt to enter licensed premises, or 4) falsely represent their age for the purpose of receiving beverages from a licensee or permittee.

The state also imposes penalties against those who provide “fake ID” or knowingly provide beverages to “underage” persons, i.e., persons younger than the legal drinking age.

### II. FALSE IDENTIFICATION

**Penalties against Providers of “Fake ID”.** Act 27 increases the criminal fine imposed on providers of “fake ID” to \$300-\$1,250 (previously \$100-\$500). The provision for 10-30 days’ imprisonment, which may be imposed in addition to or in lieu of the fine, continues.

**Penalties against Users of “Fake ID”.** The act also increases the civil forfeiture for underage patrons who carry or present various specified forms of false identification or official identification that has been altered, fraudulently obtained, or used under false pretence to \$300-\$1,250 (previously \$100-\$500). The forfeiture is in addition to the existing penalties of sentence to a supervised work program and/or suspension of the driver’s license, regardless of whether the violation occurred in connection with a motor vehicle violation.

**Civil Liability Exemption for Retaining Proofs of Age.** Act 27 created an exemption from civil liability for sellers of alcohol beverages or their employees who retain an ID for a

reasonable length of time while making a good faith effort to determine whether the person who presented the document is an underage person or to notify a law enforcement authority of a suspected violation.

### **III. MUNICIPAL REGULATION**

Municipalities may adopt ordinances incorporating portions of Chapter 125, relating to alcohol beverages, or prescribe additional regulations that do not conflict with state law. In some instances, however, municipal regulation not only cannot conflict, but must also strictly conform with, state law, thereby precluding any additional regulations. Most municipal regulation of conduct relating to underage persons falls in the latter category. As part of Act 27, the legislature passed a provision that would have applied the strict conformity requirement to all municipal ordinances incorporating Section 125.07 – including the portion relating to sale to intoxicated persons. The governor vetoed the new provision, stating that municipalities are “better suited to determine the alcohol beverage ordinances that are appropriate”. Thus, existing restrictions on municipal regulation were not affected by Act 27.

### **IV. FOR MORE INFORMATION**

For copies of Sections 125.039, 125.07, 125.085 and 125.10, Wisconsin Statutes, relating to the minimum legal drinking age, call the Legislative Reference Bureau at (608) 266-0342.