

## **8.17 Possession and Consumption of Certain Items by Underage Persons**

(1) POSSESSION AND CONSUMPTION OF ALCHOL BEVERAGES AND INTOXICATING LIQUOR BY UNDERAGE PERSONS. The provisions of Section 125.07(1), (3), (4), and 125.09(2) of the Wisconsin Statutes relating to the possession and consumption of alcohol beverages and intoxicating liquor by underage persons and the presence of such persons on licensed premises are hereby adopted and made a part of this chapter.

(2) ALCOHOL BEVERAGES; RESTRICTIONS RELATING TO UNDERAGE PERSONS.

(a) *Restrictions*

1. No person may procure to sell, dispense, or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.
2. No licensee or permittee may sell, vend, deal, or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.
3. 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 subdivision does not apply to alcohol beverages used exclusively as part of a religious service.
4. No adult may intentionally encourage or contribute to a violation of sub. (4) (a) or (b).

(b) PENALTIES. Any person who violates this section shall forfeit not more than \$2,500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

(3) PRESENCE IN PLACES OF SALE; PENALTY.

(a) *Restrictions.* An underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age may not enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase,

receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:

1. An underage person who is resident, employee, lodger, or boarder on the premises controlled by the proprietor, licensee, or permittee of

which the licensed premises consists or is a part.

2. An underage person who enters or is on a Class “A” or “Class A” premises for the purpose of purchasing items other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.

3. Hotels, drug stores, grocery stores, bowling centers, billiards centers having on the premises 12 or more billiards tables that are not designed for coin operation and that are 8 feet or longer in length, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums, public facilities as defined in s. 125.51 (5) (b) 1.d. which are owned by a county or municipality or centers for the visual or performing arts,

3m. Premises having an indoor volleyball court that measures at least 9 meters by 18 meters in area. The exception under this subdivision does not authorize an underage person to loiter in any room that is primarily used for the sale or consumption of alcohol beverages.

4. Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in chs. 27 and 28, and parks owned or operated by agricultural societies.

5. Ski chalets, golf courses, and golf clubhouses, racetracks licensed under ch. 562, curling clubs, private soccer clubs, and private tennis club.

6. Premises operated under both a Class “B” or “Class B” license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class “B” or “Class B” license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

6m. Premises operating under both a “Class C” license and a restaurant permit.

7. An underage person who enters or remains on a Class “B” or “Class B” premises for the purpose of transacting business at an auction or market, if the person does not enter or remain in a room where alcohol beverages are sold, furnished, or possessed.

8. An underage person who enters or remains in a room on Class “B” or “Class B” licensed premises separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this subdivision. An underage person may enter and remain on Class “B” or “Class B” premises under this subdivision only if the municipality which issued the Class “B” or “Class B” license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this subdivision and the law enforcement agency responsible for enforcing the ordinance issues to the Class “B” or “Class B” licensee a written

authorization permitting underage persons to be present under this subdivision on the date specified in the authorization. Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare, or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

9. A person who is at least 18 years of age and who is working under a contract with the licensee, permittee, or corporate agent to provide entertainment for customers on the premises.

10. An underage person who enters or remains on Class "B" or "Class B" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold, or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or limited liability company or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the local law enforcement agency, in advance, of the times underage persons will be allowed on the premises under the subdivision.

11. An underage person who enters or remains in a dance hall attached to Class "B" or "Class B" licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.

12. An underage person who enters and remains on premises for which a temporary Class "B" license is issued under s. 125.26 (6) if the licensee is authorized by the official or body of the municipality that issued the license to permit underage persons to be on the premises under s. 125.26 (6) and if the licensee permits underage persons to be on the premises.

(b) *Penalties.* A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of par. (a) is subject to a forfeiture of not more than \$500.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

(4) UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.

(a) Any underage person who does any of the following is guilty of a violation:

1. Procures or attempts to procure alcohol beverages from a licensee or permittee.
2. Unless accompanied by a parent, guardian, or spouse who attained

the legal drinking age, possesses or consumes alcohol beverages on licensed premises.

3. Enters, knowingly attempts to enter, or is on licensed premises in violation of sub. (3) (a).

4. Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.

(b) Except as provided in par. (bm), any underage person not accompanied by his or her parent, guardian, or spouse who attained the legal drinking age who knowingly possesses or consumes alcohol beverages is guilty of a violation.

(bm) An underage person may possess alcohol beverages in the course of employment during his or her working hours if employed by any of the following:

1. A brewer.

2. A fermented malt beverages wholesaler.

3. A permittee other than a Class "B" or "Class B" permittee.

4. A facility for the production of alcohol fuel.

5. A retail licensee or permittee under the conditions specified in s. 125.32 (2) or 125.68 (2) or for delivery of unopened containers to the home or vehicle of a customer.

6. 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 the legal drinking age.

(bs) Any person violating par. (a) is subject to the following penalties:

1. For a first violation, a forfeiture of not less than \$250 nor more than \$500, suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 1., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

2. For a violation committed within 12 months of one previous violation, either a forfeiture of not less than \$300 nor more than \$500, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 2.

3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$500.00 nor more than \$750.00, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (a) involved a

motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$750 nor more than \$1,000, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

(c) Any person violating par (b) is subject to the following penalties:

1. For a first violation, a forfeiture of not less than \$100 nor more than \$200, suspension of the person's operating privilege as provided

under s. 343.30 (6) (b) 1., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

2. For a violation committed within 12 months of one previous violation, either a forfeiture of not less than \$200 nor more than \$300, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 2.

3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$300 nor more than \$500, participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$500 nor more than \$1,000, participation in a supervised work program or other community service work under par, (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

(cd) For purposes of par. (bs) or (c), all violations arising out of the same incident or occurrence shall be counted as single violation.

(cm) When a court revokes or suspends a person's operating privilege under par. (bs) or (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village, or town attorney, law enforcement agency, or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.

(d) A person who is under 17 years of age on the date of disposition is subject to s. 938.344 unless proceedings have been instituted against the person in a court of civil or criminal jurisdiction after dismissal of the citation under s. 938.344(3).

(e) 1. In this paragraph, "defendant" means a person found guilty of violating par. (a) or (b) who is 17, 18, 19, or 20 years of age.  
2. After ordering a penalty under par. (bs) or (c), the court, with the agreement of the defendant, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed, except that the court may not stay, suspend, or modify the suspension of a person's operating privilege required under par. (bs) or (c). The order under this subdivision shall require the defendant to do any of the following:

a. Submit to an alcohol abuse assessment that conforms to the criteria specified under s. 938.547 (4) and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol abuse assessment and shall specify the date by which the assessment must be completed.

b. Participate in an outpatient alcohol abuse treatment program at an approved treatment facility, if an alcohol abuse assessment conducted under subd. 2. a. recommends treatment.

c. Participate in a court approved alcohol abuse education program.

3. If the approved treatment facility, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant has submitted to an assessment under subd. 2. a. and that the defendant does not need treatment or education, the court shall notify the defendant of whether or not the penalty will be reinstated.

4. If the defendant completes the alcohol abuse treatment program or court-approved alcohol abuse education program, the approved treatment facility or court approved alcohol abuse education program shall, with the written informed consent of the defendant, notify the agency primarily responsible for providing services to the defendant that the defendant has

complied with the order and the court shall notify the defendant of whether or not the penalty will be reinstated. If the court had ordered the suspension of the defendant's operating privilege under par. (bs) or (c) , the court may order the secretary of transportation to reinstate the operating privilege of the defendant if he or she completes the alcohol abuse treatment program or court-approved alcohol abuse education program.

5. If an approved treatment facility or court-approved alcohol abuse education program, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant is not participating in the program or that the defendant has not satisfactorily completed a recommended alcohol abuse treatment program or an education program, the court shall hold a hearing to determine whether the penalties under par. (bs) or (c) should be imposed.

(5) POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED.

(a) In this subsection:

1. "Motor vehicle" means a motor vehicle owned, rented, or cosigned to a school.
2. "School" means a public, parochial, or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school.
3. "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
4. "School premises" means premises owned, rented, or under the control of a school.

(b) Except as provided by par. (c) no person may possess or consume alcohol beverages:

1. On school premises;
2. In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
3. While participating in a school-sponsored activity.

(c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws, ordinances, and school board policies.

(d) Any person who violates this subsection is subject to a forfeiture of not more than \$200.00, except if the person is underage the penalties for underage violations shall apply.