

CHAPTER 39

ALCOHOL BEVERAGE CONTROL

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39.01 TITLE. This ordinance may be cited as the Alcohol Beverage Control Ordinance.

[History: cr., OA 23, 1982-83, adopted 05/03/83.]

39.02 INTERPRETATION.

(1) This ordinance shall be interpreted consistent with state law, in particular chapter 125 of the Wisconsin Statutes, as amended by 1983 Wisconsin Act 74 and 1983 Wisconsin Act 472, and with the purposes enumerated herein. Definitions set forth in chapter 125 of the Wisconsin Statutes, as amended by 1983 Wisconsin Act 74 and 1983 Wisconsin Act 472, are adopted by reference.

(2) All references herein to chapter, section and subsection numbers are to those of the Dane County Code of Ordinances unless expressly stated otherwise.

[History: cr., OA 23, 1982-83, adopted 05/03/83; (1) am., OA 27, 1984-85, adopted 12/20/84.]

39.03 AUTHORITY. This ordinance is enacted under the authority of sec. 125.10(2), Wis. Stats.

[History: cr., OA 23, 1982-83, adopted 05/03/83.]

39.04 PURPOSE. The purpose of this ordinance is to provide for a more efficient means of addressing the problem of alcohol abuse by underage persons and persons contributing to alcohol abuse by underage persons.

[History: cr., OA 23, 1982-83, adopted 05/03/83; am., OA 27, 1984-85, adopted 12/20/84.]

39.05 ADMINISTRATION. This ordinance shall be enforced by the Dane County Sheriff's Department.

[History: cr., OA 23, 1982-83, adopted 05/03/83.]

39.06 APPLICABILITY. This ordinance shall be enforced in all cities, villages and towns of Dane County except those having a local ordinance adopted under s. 125.10(2), Stats.

[History: cr., OA 23, 1982-83, adopted 05/03/83; am., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

39.07 DEFINITIONS. As used in this chapter:

(1) *Alcohol beverages* means fermented malt beverages and intoxicating liquor.

(1m) *Campus* has the meaning given under s. 36.05(3), Wis. Stats.

(2) *Fermented malt beverage* means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and de-germinated grains or sugar containing 0.5% or more alcohol by volume.

(3) *Intoxicating liquor* means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include *fermented malt beverages*.

(3m) *Legal drinking age* means 21 years of age.

(4) *Licensee* means any person holding a written authorization to sell alcohol beverages issued by a municipal government under chapter 125 of the Wisconsin Statutes.

(5) *Permittee* means any person holding a permit issued by the department of revenue under chapter 125 of the Wisconsin Statutes.

(6) *Person* means a natural person, sole proprietorship, partnership, limited liability company, corporation or association.

(7) *Premises* means the area described in a license or permit.

(8) *Sell, sold, sale or selling* means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

(9) *Underage person* means a person who has not attained the legal drinking age.

(10) *Wholesaler* means a person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit or license to sell alcohol beverages at wholesale.

[History: cr., OA 23, 1982-83, adopted 05/03/83; (3) am. and (1m), (3m) and (6)-(10), cr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

[39.08-39.10 reserved.]

39.11 PROHIBITED CONDUCT.

(1) It shall be unlawful and a violation of this ordinance for any person to procure for, 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) It shall be unlawful and a violation of this ordinance for any adult knowingly to 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.

(3) It shall be unlawful and a violation of this ordinance for any adult intentionally to encourage or contribute to a violation of s. 39.21 or 39.22.

[History: cr., OA 23, 1982-83, adopted 05/03/83; am., OA 27, 1984-85, adopted 12/20/84; rep. and recr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

[State Law Reference: ss. 125.07(4)(a) and (b); 125.10(2), stats.]

[39.12-39.20 reserved.]

[History: 39.12 cr., OA 23, 1982-83, adopted 05/03/83.; am., OA 27, 1984-85, adopted 12/20/84; rep., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

[History: 39.13 and 39.14 cr., OA 23, 1982-83, adopted 05/03/83; rep., OA 27, 1984-85, adopted 12/20/84.]

[History: 39.15 cr., OA 23, 1982-83, adopted 05/03/83; (2) and (3) am., OA 27, 1984-85, adopted 12/20/84; rep., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

39.21 UNDERAGE PERSONS; PROHIBITIONS. 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 has 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 s. 125.07(3)(a), Wis. Stats.
- (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.

[History: cr., OA 23, 1982-83, adopted 05/03/83; (1)-(4) am. and (5)-(11) cr., OA 27, 1984-85, adopted 12/20/84; rep. and recr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

39.22 UNDERAGE PERSONS; CONTINUED.

- (1) Except as provided in sub. (2), any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes alcohol beverages is guilty of a violation.
- (2) 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:
 - (a) A brewer.
 - (b) A fermented malt beverages wholesaler.
 - (c) A permittee other than a Class "B" or "Class B" permittee.
 - (d) A facility for the production of alcohol fuel.
 - (e) A retail licensee or permittee under the conditions specified in s. 125.32(2) or 125.68(2), Wis. Stats., or for 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 the legal drinking age.

[History: cr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

[39.23-39.40 reserved.]

39.41 PROHIBITED CONDUCT, CONTINUED. Any underage person who does any of the following is guilty of a violation:

- (1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information.
- (2) Makes, alters or duplicates an official identification card purporting to show that he or she has attained the legal drinking age.
- (3) Presents false information to an issuing officer in applying for an official identification card.
- (4) Intentionally carries an official identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the official identification card or documentation is false.

[History: cr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

[39.42-39.50 reserved.]

39.51 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED.

(1) In this subsection:

(a) *Motor vehicle* means a motor vehicle owned, rented or consigned to a school.

(b) *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.

(c) *School administrator* means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

(d) *School premises* means premises owned, rented or under the control of a school.

(2) Except as provided by sub. (3) no person may possess or consume alcohol beverages:

(a) On school premises;

(b) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or

(c) While participating in a school-sponsored activity.

(3) 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.

[History: cr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

[39.52-39.90 reserved.]

39.91 PENALTIES FOR VIOLATION OF SECTION 39.11.

(1) In this section, *violation* means a violation of section 39.11 if the violation results in an imposition of a forfeiture. For purposes of determining previous violations under sub. (2), the 30-month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation.

(2) A person who commits a violation may be:

(a) Required to forfeit not more than \$500 if the person has not committed a previous violation within 30 months of the violation.

(b) Required to forfeit not more than \$500 if the person has committed a previous violation within 30 months of the violation.

(c) Required to forfeit not more than \$1,000 if the person has committed 2 previous violations within 30 months of the violation.

(d) Required to forfeit not more than \$10,000 if the person has committed 3 or more previous violations within 30 months of the violation.

(3) A person who holds a Class "A" license, a Class "B" license or permit, a "Class A" license or a "Class B" license or permit who commits a violation is not subject to sub. (2).

[History: cr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

39.92 PENALTIES FOR VIOLATION OF SECTIONS 39.21 AND 39.22.

- (1) Any person violating s. 39.21 is subject to the following penalties:
 - (a) For a first violation, a forfeiture of not less than \$250 nor more than \$500.
 - (b) For a violation committed within 12 months of a previous violation, a forfeiture of not less than \$300 nor more than \$500.
 - (c) For a violation committed within 12 months of 2 previous violations, a forfeiture of not less than \$500 nor more than \$750.
 - (d) For a violation committed within 12 months of 3 or more previous violations, a forfeiture of not less than \$750 nor more than \$1,000.
- (2) Any person violating s. 39.22 is subject to the following penalties:
 - (a) For a first violation, a forfeiture of not less than \$100 nor more than \$200.
 - (b) For a violation committed within 12 months of a previous violation, a forfeiture of not less than \$200 nor more than \$300.
 - (c) For a violation committed within 12 months of 2 previous violations, a forfeiture of not less than \$300 nor more than \$500.
 - (d) For a violation committed within 12 months of 3 or more previous violations, a forfeiture of not less than \$500 nor more than \$1,000.
- (3) For purposes of sub. (1) or (2), all violations arising out of the same incident or occurrence shall be counted as a single violation.

[History: cr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

39.93 PENALTIES FOR VIOLATIONS OF SECTION 39.41. Any underage person who violates s. 39.41 is subject to a forfeiture of not less than \$100 nor more than \$500.

[History: cr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

39.94 PENALTIES FOR VIOLATIONS OF SECTION 39.51. A person who violates s. 39.51 is subject to a forfeiture of not more than \$200, except that ss. 48.344 and 125.07(4)(c) and (d), Wis. Stats., provide the penalties applicable to underage persons.

[History: cr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

39.95 STATUTORY SENTENCING ALTERNATIVES NOT AFFECTED. The penalties set forth in this chapter are not intended to and shall not be construed as in any manner restricting, modifying or abridging a court's discretion in utilizing the sentencing alternatives and supplements set forth in chapter 125 of the Wisconsin Statutes.

[History: cr., Sub. 2 to OA 17, 1995-96, pub. 09/20/95.]

[39.96-39.99 reserved.]

END OF CHAPTER