



CITY OF LA CROSSE, WISCONSIN

FAQs - Temporary Class "B"/"Class B" Retail (Picnic) License (April 2019)

These FAQs are specific to events held in the City of La Crosse and are intended to help clarify confusion as to which organizations are qualified to obtain a temporary alcohol (picnic) license, what events qualify and the responsibilities of a temporary license holder. This is not intended to provide legal advice nor does it address all areas of concern or responsibility of a licensee. As the dispensing of alcoholic beverages exposes you to significant personal and legal risks, including potential civil and criminal liability, you are encouraged to seek the advice of your own legal counsel.

A Temporary Class B Retail (picnic) License authorizes an eligible organization to sell fermented malt beverages and/or wine to consumers at a particular picnic or similar gathering of the organization. Licenses may be issued for one day or consecutive days that the event is in progress. Licenses may not be issued for social or business meetings of the organization (exception for meetings of ex-servicemen posts).

Who is eligible?

Temporary Class B licenses may be issued to bona fide clubs and chambers of commerce*, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least 6 months before the date of application and to posts of veterans organizations. Wis. Stats. 125.26(6).

*Chamber of Commerce" means a local chamber of commerce organized under Ch. 181 or a similar civic or trade organization organized under Ch. 181 to promote economic growth and opportunity within a local geographical area. Wis. Stats. 125.02(3u).

Who is not eligible?

An individual, partnership or business corporation is not eligible for a Temporary Class B license. Further, it is prohibited to use another's license. Therefore, an ineligible business should not arrange beer and wine sales through an eligible organization to promote one's business.

How do I know if I am eligible?

Any new applicant for a Temporary Class B license is required to submit an Affidavit of Eligibility along with the following documents to assist in determining eligibility:

- Articles of Incorporation/Registration with the Wisconsin Department of Financial Institutions.
- Bylaws/Mission Statement outlining the purpose of the organization.
- Exemption Determination Letter from the IRS or 501(c) documentation.
- Meeting minutes from the 12 months prior to filing.

When is a license required?

Two situations require a retail license: (1) whenever there is a direct or indirect charge for alcohol and (2) when alcohol beverages are consumed in a public place.

What constitutes the sale of alcohol?

The sale of alcohol beverages includes more than the exchange of money. Any charge made directly or indirectly for alcohol beverages or recovery of the cost requires the person in charge to hold a license.

Indirect sales can include donation or tip jars, memberships, enticement to use one's services, etc. Examples of an indirect charge are the ticket price includes alcohol beverages, the cost of the meal or service includes alcohol beverages or a donation is required in order to consume alcohol beverages.

Wis. Stats. 125.67 prohibits giving away alcohol or using any other means to evade state law relating to sale.

What are Wine and Beer Walks?

Wine and Beer Walks allow for-profit businesses to participate and benefit from a temporary license issued to an eligible organization. Municipalities may issue up to 20 licenses to an eligible organization that is sponsoring a single-day event held at multiple locations in the municipality on a particular date and at the same times, and an admission fee is charged for participating in the event and no additional fee is charged for service of alcohol at the event. Wis. Stats. 125.51(10)(b).

Licensee must purchase all alcohol from a wholesaler for each licensed premise and have separate purchase transactions and invoices for each licensed premise. A licensee may not purchase enough alcohol from a wholesaler to then distribute to each premise. Consignment sales are prohibited; leftover alcohol must be retained and disposed of by licensee and cannot be sold back to the wholesaler. Licensee may not charge participating businesses for beer/wine. Consumers may not leave licensed premise with open intoxicants.

How many temporary licenses are allowed to any one eligible organization?

There is no limit to the number of Class "B" (beer) licenses that may be issued to an eligible organization in a calendar year. However, no more than two "Class B" (wine) licenses may be issued to any one eligible applicant within any 12-month period. For purposes of the two-license limit for such events, each event for which multiple licenses are issued (i.e. wine walk) shall count as one license toward the two-license limit.

Are both on- and off-premise sales are permitted with a Temporary Class B license?

Holders of a Temporary Class B license are allowed to make sales for both on- and off-premise consumption. The entrance and exit of the licensed area must be monitored and controlled.

- Anyone purchasing an opened or poured beverage is allowed to consume only within the licensed (fenced) area. (On premise example: consumption in a tavern and you cannot walk out with your opened beverage.)
- Anyone purchasing unopened alcohol beverages must not open the beverage until they have left the licensed area. (Off premise example: purchasing unopened alcohol from a grocery store and taking it off-premise to consume.) If event is held in a City park, off-premise consumption can occur only in Riverside Park and a portion of Myrick Park. Sec. 34-66 of the La Crosse Municipal Code.
- No one can carry alcohol into the licensed area.

Pursuant to Sec. 4-182 of the La Crosse Municipal Code, the area in which fermented malt beverages or wine are dispensed or sold shall be fully enclosed with a temporary enclosure with a clearly defined entrance and exit when it is anticipated the picnic or gathering will draw 200 or more persons.

Is consumption of alcohol allowed at an unlicensed business?

No person in charge of a public place may permit the consumption of alcohol on the premises of the public place unless said person has the appropriate retail license; even after hours. Examples of a public place or event (at a non-licensed premise) are an open house, grand opening or an event held at a location that caters to the general public. Note: The only exemption is if an owner of a non-licensed business hosts a private party for employees after hours when doing something for the employees only and not attracting the general public.

Can a temporary license be issued for a business premise?

No Class B beer license may be granted for any premise where any other business is being conducted in connection with the premise; with exception for wine and beer walks. Wis. Stats. 125.32(3m).

Can a temporary license be issued for events in City parks or on City-owned property?

Outdoor picnics or gatherings with a temporary Class B license in City parks shall be limited to Carroll Park, Copeland Park, Riverside Park, Houska Park, Cameron Park, Myrick Park, Veteran's Freedom Park, Pettibone Park except the beach area, Green Island Park, Erickson Fields, Upper Hixon Park and Burns Park with permission from the Board of Park Commissioners. Sec. 4-182 of the La Crosse Municipal Code.

A temporary license is not permitted on any other City property unless authorized by lease or agreement.

Do I need a license for a gathering at a private residence (backyard/lawn party) when serving alcohol?

City ordinance prohibits alcohol licenses being issued to a private residence. A non-licensed event may serve or possess alcohol beverages on the premise only if the event is restricted to personally invited guests and is not open to the general public. There can be no direct or indirect charge for the alcohol beverages.

What are the responsibilities of an alcohol licensee?

- The organization which obtains the temporary alcohol license is legally required to be the operator of the alcohol operations. The licensee cannot delegate the responsibilities to another organization or business.
- Licensee must derive the profits and losses from the sale of fermented malt beverages and/or wine.
- Licensee must purchase alcohol from a wholesaler and keep invoices for two years. A licensee is prohibited from buying from another retailer (i.e. grocery store). A licensee may not accept donations of alcohol beverages. All alcohol beverages on a licensed premise must be obtained through a bona fide sale (i.e. a wholesaler cannot provide discounted pricing to a charitable organization and then charge a higher price to another retailer).
- Licensee must have adequate licensed beverage operators. A licensed operator must be capable of supervising and controlling the alcohol sales at the event/venue. The duties of a licensed server include ensuring that the alcohol beverages are securely maintained, that no underage persons are on the licensed premise without the appropriate adult parent/guardian/spouse, that no underage persons are served alcohol, that false IDs are confiscated and turned over to police and that no person is overserved.

Are underage persons permitted in licensed premises/events?

Underage persons (under the age of 21) are prohibited from entering a licensed premise unless exempted or excluded pursuant to Wis. Stats. 125.07(3).