



# ALCOHOL POLICY

## Guide to laws and regulations for restaurant owners

### Wisconsin alcohol laws

- Wisconsin's legal drinking age is 21.
- You must demand proof of age from anyone entering the premises who appears to be under the legal drinking age.
- An underage person may legally drink alcohol if accompanied by his or her parent, legal guardian, or spouse of legal drinking age. However, you may establish your own policy of refusing service to any underage person whether accompanied or not.
- Licensed establishments permitting unaccompanied underage persons to unlawfully enter the premises are subject to forfeiture and other penalties.
- A person who sells or furnishes alcohol to an unaccompanied underage person is subject to forfeiture and other penalties.
- A business with a license to serve alcohol must have one of the following people present during all business hours:
  - The liquor license licensee.
  - An adult member of the licensee's immediate family. (The family member must be at least 18 and actually living in the licensee's household.)
  - The corporation agent named on the liquor license (Family members of the agent may not supervise alcohol sales in the agent's absence unless they have operator's licenses.)
  - The holder of an operator's or manager's license.
  - The holder of a provisional operator's license.
- Employees who serve alcohol beverages without an operating license must be at least 18 and under the immediate supervision of one of the people listed in the above point. "Immediate supervision" means the person qualified to supervise alcohol sales must be in the same room or area and able to watch the unlicensed person's activities.
- To obtain an operator's license, you must be at least 18 years old and successfully complete a state-approved responsible alcohol service class.
- It is illegal to furnish alcohol beverages to an intoxicated person. The penalty for this violation is up to a \$500 fine, imprisonment for up to 60 days, or both.

**Questions? Contact the WRA Hotline: 800-589-3211 or [hotline@wirerestaurant.org](mailto:hotline@wirerestaurant.org)**

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## **Recommended policies to address underage drinking**

- Check the ID of anyone purchasing alcohol who appears to be under 30.
- If you make a policy of not serving any unaccompanied underage person, enforce that policy uniformly and consistently.
- If you are unsure if an ID is legitimate, refer to the “F.A.B. (fake, altered or borrowed) ID Check.”
- If there is reason to doubt an ID is valid, you should record the date, type of identification offered, address and signature of the patron in a Wisconsin ID register.
- The law allows you to confiscate IDs you believe are fake, altered or borrowed. Call local law enforcement (in a timely manner, so any legitimate IDs are properly returned) to retrieve the card.

## **Additional recommended alcohol policies**

### **Servers should:**

- Be alert to signs of intoxication.
- Keep track of drinks served to customers and communicate observations of drinking behavior to the next server.
- Serve one drink at a time -- don't stack drinks.
- Serve consistent drinks that are not overloaded with alcohol.
- Notify the owner/manager if, in your judgment, you should cease alcohol service to a customer.

### **Management should:**

- Make known and enforce the above policies to all employees.
- Support employees' judgment regarding the intoxication level of patrons and their decisions to cease service.
- Encourage the use of snacks, coffee and non-alcoholic beverages to moderate drinking behavior.
- Feature happy hours with half-price drinks rather than two-for-one specials.
- Have information posted within view of customers stating Wisconsin's law, which requires alcohol servers to cease service to intoxicated persons.
- Attempt to prevent intoxicated persons from driving. Arrange an alternative ride or call a cab.

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## Frequently Asked Questions

**Q:** I usually supervise the bar in our restaurant, but sometimes the kitchen gets swamped and I go back to lend a hand. I have an employee who stays up front and supervises the bar while I'm in the kitchen. Is this okay? He doesn't have an operator's license.

**A:** No. Either a licensed bartender or the agent named on the establishment's liquor license must be in the bar supervising the sale of alcohol at all times. If you are in the kitchen, you aren't supervising. The employee must be within your direct sight.

**Q:** I own a small restaurant with a liquor license. I heard that my family members can supervise the bar when I'm not there, even if they don't have operator's licenses. Is this true?

**A:** It depends. If you are the liquor license licensee, there is a provision in the law that lets your immediate adult family members supervise the sale of alcohol in your absence, even if they do not have operator's licenses. To be considered a member of your immediate family, they must be living in your household.

In contrast, if you are not the licensee, but the agent named on the liquor license, your family members do not have this privilege.

Who is a licensee and who is an agent? The licensee is the person, partnership, limited liability company, corporation or association that owns the establishment and to whom the liquor license is issued. So, if John Doe is the sole proprietor of J.D.'s Restaurant, he is the licensee and his immediate adult family members may serve liquor in his absence without operator's licenses.

When the licensee is a limited liability company or

corporation, an agent -- one actual person -- must be named. Therefore, if The J.D. Corporation owns J.D.'s Restaurant, John Doe could be the agent named on the liquor license. In this case, family members would need operator's licenses to serve alcohol.

**Q:** I own a bar and grill. If teenagers come into my business without their parents, can I serve them food?

**A:** That depends -- is your business primarily the bar or the grill? If you are primarily a bar, no underage person is allowed unaccompanied in your establishment. If your main business is that of a restaurant, customers under 21 can come in by themselves to eat.

If you do serve meals to underage patrons, you must still try to keep them as far away from the bar as possible. If your bar and dining areas are separate rooms, you should allow them in the dining room only. If your establishment is one big area, you should serve the teenagers at a table far from the bar and not at the bar counter itself.

How do you know if your establishment is primarily a bar or restaurant? Generally gross sales are the determining factor. If more than 50 percent of your gross sales come from alcohol, your business will probably be considered a bar; if more than 50 percent of gross sales come from food, you'll probably be seen as a restaurant. However, this is not always so clear. Other factors, such as how much physical space is devoted to alcohol versus food sales, can be considered. If your business did a lot of off-premises catering, but most of your on-premises sales were alcohol, you might be considered a bar even if your gross sales were more than 50 percent food.

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**Q.** We carry some non-alcohol beers on our menu. The beers still have a trace of alcohol. Can we let teenagers order these?

**A.** Yes. Non-alcohol beers are not regulated as alcohol under the law because they contain less than 0.5 percent alcohol by volume. There is no problem serving these beverages to teenagers. However, don't confuse "low-alcohol" with "non-alcohol." Low alcohol beers contain more than 0.5 percent alcohol by volume and cannot be served to an underage person who is not accompanied by a parent, legal guardian or spouse of legal drinking age.

**Q.** Recently an older couple came into our restaurant with their teenage granddaughter. They wanted to buy her a glass of wine with dinner. Was it legal to serve her?

**A.** No. Wisconsin law says you may serve an underage person only if they are accompanied by a parent, legal guardian, or legal-age spouse. A grandparent, aunt, uncle, brother, sister, etc., cannot legally give you permission to serve someone who is underage.

**Q.** What is my legal liability if a person who drinks at my restaurant later gets into a drunk driving accident?

**A.** It is against the law in Wisconsin to serve alcohol to a person who is intoxicated. If you serve someone who is intoxicated, you can be held criminally liable. The penalty for this violation is a fine up to \$500 and/or imprisonment for up to 60 days.

However, in Wisconsin you cannot be held civilly liable if someone you served hurts himself or herself (or someone else) while intoxicated. What does this mean? It means if someone gets hurt in a drunk driving accident, nobody can bring a multi-million dollar lawsuit against you because the person who caused the accident was drinking at

your bar or restaurant. This is not the case in every state. Minnesota and many other states have what are called "dram shop" laws. This means bars and restaurants can be held civilly liable if someone they serve has an accident. Consequently, liquor liability insurance in these states can be incredibly expensive. WRA fought hard to keep dram shop laws out of Wisconsin.

One important note: if the person you were serving was underage, you can still be sued by a third party if that underage person hurts someone else while he or she is intoxicated.

**Q.** Where can I learn more about alcohol laws?

**A.** The Department of Revenue's Wisconsin Alcohol Beverage and Tobacco Laws for Retailers (Publication 302) is a very valuable resource! Visit [www.revenue.wi.gov/pubs/pb302.pdf](http://www.revenue.wi.gov/pubs/pb302.pdf)

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