

TO: Stop Underage Drinking List Members and Interested Individuals
FROM: Julia Sherman, Wisconsin Alcohol Policy Project
RE: Click & Collect Alcohol Sales

Grocery stores and general retailers with a strong grocery section are expanding their online ordering and pick-up services, known in the industry as "Click & Collect". The target customer groups are individuals who may have difficulty walking into or through the store such as people with mobility problems or individuals with young children. In the past six-month those efforts have expanded dramatically in Wisconsin and many retailers are seeking the necessary municipal approval to add alcohol sales to their online grocery offerings. But adding alcohol to Click & Collect sales also poses the risk of underage drinking if handled poorly.

Straw buyers, individuals who are age 21 or older who purchase alcohol for underage youth, are a serious risk in Click & Collect sales. While grocery stores have traditionally not been locations youth purchase alcohol, having the actual purchase outside the store, credit card sales, combined with the challenges of darkness, weather and the relative anonymity of a parking lot purchase – the possibility of straw buyers must be considered.

If retailers wish to include alcohol sales in their Click & Collect plans, they must take specific actions at the municipal level to comply with state law. Wisconsin requires the following for alcohol sales:

1. The sale must be face-to-face.
2. The sale must take place on the licensed premises.
3. The purchaser must be age 21.
4. The seller must be a licensed "operator" or under the supervision of a licensed operator.
5. The purchaser is not intoxicated.

Interested retailers are asking municipalities to designate the parking stalls used for the Click & Collect deliveries as part of the licensed premises on the alcohol license. Licensed premises must include all areas where alcohol is stored or sold. Outside the City of Milwaukee licensed areas do not need to be contiguous allowing specific parking stalls to be designated for alcohol sales.

A municipality has discretion over whether to allow the expanded premises. A municipality should evaluate applications uniformly, but granting one request for extended premises does not require granting all subsequent requests. A consistent set of guidelines or criteria for reviewing these requests supports consistency. Online ordering and delivery only requires municipal approval if alcohol is included. Taking the time to evaluate the application does not delay the entire operation, just alcohol sales.

A request for expanded premises provides an opportunity to add new license conditions. After the premises have been changed, both the licensee and municipality must agree to any license conditions but the community can add conditions unilaterally as part of the change in the licensed premises.

Municipalities should review a retailer's policies for the Click & Collect operation before expanding the licensed premises so that any necessary amendments can be reflected as license conditions. At this time, it appears that no approved or generally accepted form of alcohol age compliance checks have been created for Click & Collect operations, careful awarding this privilege is the only prevention currently available to municipalities.

Some retailers are adding a surcharge (\$5.00) for this service, which may discourage some youth but not others. Some communities may decide to adopt ordinance that includes the identified “best practices” for these operations. An ordinance would cover all licensees with Click & Collect operations. Although an ordinance is unlikely to cover every scenario, a municipality could adopt a broad ordinance to regulate these sales with specific conditions added to individual licenses as needed.

Questions a municipality should ask before expanding the licensed area for Click & Collect include:

- What hours will alcohol orders be allowed? Should the ordering window to close before high school recesses for the day?
- Exactly how is an alcohol order assembled?
- Who assembles the entire order?
- Is an itemized tape prepared? Is it a receipt indicating the sale was already completed?
- When is the credit card charged for the order? [Note: It could be asserted the sale occurs when the card is charged. If that is done when the order is assembled, is it really a face-to-face sale?]
- Is the individual who delivers the order a licensed operator? Clearly someone outside the building checking an ID is not under supervision, that individual needs to be a licensed operator (bartender). The opinion of the local law enforcement agency is very important.
- What equipment is provided to that individual? For example, a flashlight to read the ID or is ambient light sufficient? A scanner to record the credit card sale or ID?
- When is the ID checked?
- When is it determined that the name on the order is the is name on the ID? The answer may be never. If the order is under a different name, it is arguable that the sale isn’t a face-to-face sale and the individual with the ID is only delivering, not purchasing, the alcohol.
- What is the policy for alcohol sale when the driver is age 21 or older but teens are the other occupants of the vehicle? Wisconsin Statute §346.93 Intoxicants in vehicle; underage persons reads as follows:

(1) No underage person, as defined under s. 125.02 (20m), may knowingly possess, transport, or have under his or her control any alcohol beverage in any motor vehicle unless the person is employed by a brewer, brewpub, alcohol beverage licensee, wholesaler, retailer, distributor, manufacturer, or rectifier and is possessing, transporting, or having such beverage in a motor vehicle under his or her control during his or her working hours and in the course of employment, as provided under s. 125.07 (4) (bm).

The City of La Crosse operated successful alcohol interdiction operations for several years at liquor stores near campus to discourage straw buyers.

Earlier this month, the City of Fond du Lac added the following alcohol license conditions when the licensed premises was expanded for a Click & Collect program:

- The system must allow the purchase of alcohol or tobacco to be denied without affecting the remainder of the purchase
- If the purchaser is not the driver of the vehicle, the Agent/Licensed Employee must ensure the driver is 21 or older SS 346.93 (1)).
- Payment cannot be consummated until the purchaser is at the licensed premise and identification has been verified (state law)
- A licensed bartender/Operator must perform the sale/delivery (state law)
- No alcohol sales are permitted if the purchaser does not have valid photo identification
- The name on the order must match the name on the ID when purchasing alcohol or tobacco products.
- Tasting events are prohibited in the parking lot.
- Minimum 4-hour waiting period between order time and pick-up time for alcohol and tobacco

The City of Neenah is considering an ordinance to regulate Click and Collect alcohol sales. The following provisions are under discussion:

- Minimum 4-hour waiting period between order time and pick-up time
- Orders after 2 p.m. cannot be picked up until the following day (Walmart's policy is 1 p.m., but I just want the deadline before the end of the school day.)
- Images of the transaction must be captured and retained at least 30 days.
- The images must include
 - Purchaser
 - ID card
 - Vehicle
 - License Plate
- A manager must meet with any purchaser who shows any signs of alcohol consumption, must assess sobriety, and approve or deny the sale.
- The system must allow the purchase of alcohol to be denied without affecting the remainder of the purchase.
- If the purchaser is not the driver of the vehicle, the agent must ensure the driver is 21 or older (SS 346.93 (1)).
- Payment cannot be consummated until the purchaser is at the licensed premise and identification has been verified (state law)
- A licensed bartender must perform the sale/delivery (state law)
- No alcohol sales are permitted if the purchaser does not have valid photo identification
- Police must be notified when an apparently underage or intoxicated person attempts an alcohol purchase
- Pick-up hours are limited to 8 a.m. - 8 p.m.

This is a rapidly evolving issue, it would be wise to check with your municipality and express your concerns before a proposal is submitted. As with other license changes, once changed local options are limited.