



Legislation Text

File #: 01924, Version: 2

Fiscal Note

This Ordinance will result in a modest increase in General Fund Revenues. The Police Department and Clerk's Office anticipate no additional costs related to keg registration and permit processing. Staff will administer this program as part of their normal workload.

Title

SUBSTITUTE - Amending Section 38.02 and creating Section 38.07(14) of the Madison General Ordinances to create a definition for keg and to regulate the sale and possession of alcohol beverages sold in kegs in the City of Madison.

Body

DRAFTER'S ANALYSIS: This substitute ordinance provides a limitation on the capacity of fermented malt beverage in kegs that can be possessed in residential buildings with exceptions for any person or premise holding a license to sell alcohol beverages, or any person or premises obtaining a keg permit from the Madison City Clerk.

The Common Council of the City of Madison do hereby ordain as follows:

1. Section 38.02 entitled "Definitions" of the Madison General Ordinances is amended by adding and amending therein the following:

"Barrel" means 31 US gallons of fermented malt beverage.

"Capacity" means the maximum amount of fermented malt beverage a barrel is capable of holding.

"Common Area" means land, improvements and amenities which are for the benefit and use of all occupants, tenants and/or owners, including, but not limited to, areas such as corridors, hallways, playgrounds, elevators and landscaped areas.

"Keg" means any container designed for and capable of holding at least four (4) gallons of fermented malt beverages to be dispensed from a tapper or tapper-like device.

"Residential Building" means a building which is arranged, designed, used, or intended to be used for residential occupancy by one (1) or more families or lodgers, and which includes, but is not limited to, the following types:

- 1. Single-family detached dwellings
- 2. Two-family detached dwellings.
- 3. Multiple-family dwellings (including apartment hotels)
- 4. Lodging houses.
- 5. Fraternity and sorority houses.

For the purposes of this ordinance, any building containing any of the above uses together with other uses shall be considered a residential building."

2. Subsection (14) entitled "Keg Registration" of Section 38.07 entitled "General Restrictions" of the Madison General Ordinances is hereby created to read as follows:

"(14) Keg Registration.

- (a) 1. Any retailer selling fermented malt beverages by the keg within the City of Madison shall be required to affix to the keg at the time of sale a plastic or metal, durable, fixed identification label or tag approved by the Madison Police Department. Such identification label or tag shall include the retailer's name, address and telephone number and a prominently visible warning that intentional removal or defacement of the label or tag subjects the violator to a forfeiture of not less than five hundred dollars (\$500) and no more than one thousand dollars (\$1,000).
- 2. Any retailer selling fermented malt beverages by the keg within the City of Madison shall be required at the time of sale to require a valid photographic identification from the purchaser and completion of a written identification form. The form must contain the purchaser(s) name, address, date of birth, driver's license number or other identifying number if identification is not a driver's license, detailed description of purchase and date of sale. These records shall be maintained for one (1) year from the date of sale and shall be open to inspection by the Madison Police Department during normal business hours.

(b) Failure To Affix Label or Tag or Obtain Identification.

Failure to affix an approved identification label or tag as required in Subdivision (a)1, and/or

failure to complete and maintain the forms required in Subdivision (a)2, is a violation of this section and shall subject the retailer and any offending employee to the penalty stated in Subdivision (g).

(c) Limitation on Possession.

Residents and owners of residential buildings shall be allowed to possess one or more kegs with a maximum combined capacity of one barrel within the residential building or within any common areas of said residential building.

(d) Unlawful Removal of Label or Tag.

It shall be unlawful for any person who has purchased fermented malt beverages by the keg within the City of Madison to remove or alter the identification label or tag required in Subdivision (a)1. However, it shall not be a violation of this section if the person removing the identification label or tag is an employee or an owner or operator of a retail or wholesale alcoholic beverages establishment who removes the label or tag after the return of the keg to the retail establishment from which it was purchased.

(e) Possession and Delivery of Kegs.

1. It shall be unlawful for any person to be in possession of a keg of fermented malt beverage if that keg was purchased within the City of Madison and if that keg does not contain the identification label or tag as required by Subdivision (a)1.
2. No retailer or employee or agent of such may deliver one (1) or more kegs having a combined capacity in excess of one barrel to the purchaser off the retailer's premises unless the purchaser has obtained a permit or meets an exception as provided in Subdivision (f)

(f) Exceptions and Permit Procedure.

1. Exceptions. Any person or premises licensed to sell alcohol beverages under any other provision of state law or local ordinance or who has obtained a permit as provided in Subdivision (2), below, may possess one or more kegs with a maximum combined capacity of one (1) barrel and is specifically exempted from the possession limit and tagging provisions of this section. Retailers may sell and deliver kegs, to any person or premises licensed to sell fermented malt beverages, in excess of the limit stated in Subdivision (c) and without having to comply with the labeling or tagging provisions set forth in Subdivision (a)1.
2. Permit Procedure. Any person not exempt from the possession limitations provided in Subdivision (c), may apply to the City of Madison City Clerk for a permit to possess one or more kegs of fermented malt beverages having a combined capacity in excess of one (1) barrel. Permits obtained under this subdivision shall exempt the holder from the possession limit and tagging provisions of Subdivisions (c) and (e). Applications can be obtained from the City Clerk and shall be filed with the City Clerk at least three (3) working days prior to the granting of the permit. At the time of application, the applicant shall present a valid photographic identification card. The application shall contain the applicant's name, address, date of birth, driver's license number or other identifying number if the identification card is not the applicant's driver's license, a detailed description of the fermented malt beverage purchase that will be made, the date it will be made, the time and place of distribution of the fermented malt beverage, and the nature of the event for which the permit is sought. There shall be a ten dollar (\$10) processing fee for all keg permit applications. Keg permits shall be valid for one day and one location only. The City Clerk shall issue the keg permit if the applicant is age 21 or over unless the applicant has been convicted of a violation of Chapter 125 of the Wisconsin Statutes or Chapter 38 of the Madison General Ordinances within the past twenty-four (24) months prior to the date of application. The City Clerk may deny such application based upon the opinion of the City of Madison Police Chief or designee, that the issuance of such permit would be contrary to the health, safety and welfare of the community. Applicants may appeal keg permit denials to the City of Madison Alcohol License Review Committee (ALRC) for de novo review. An applicant aggrieved by a decision of the ALRC may appeal that decision to the Circuit Court as provided in Section 753.04 of the Wisconsin Statutes.

(g) Penalty. Any person violating any provision of this subsection is subject to a forfeiture of not less than five hundred dollars (\$500) and no more than one thousand dollars (\$1,000).

(h) Sunset. This ordinance shall expire two (2) years after the date of enactment unless extended by the Common Council prior to the expiration date."