



Legislation Text

File #: 14408, Version: 1

**Fiscal Note**

No fiscal impact is anticipated as a result of this ordinance change.

**Title**

Amending Section 38.10(1)(ar) of the Madison General Ordinances relating to the issuance of a summons in retail alcohol beverage license revocation or suspension actions.

**Body**

DRAFTER'S ANALYSIS: Under current law, if the Office of the City Attorney commences a license disciplinary action before the Alcohol License Review Committee, the City Attorney must formally request that the Common Council issue a summons to the licensee. This formal requirement adds weeks to the disciplinary process even though the issuance of the summons is a ministerial act and has not been controversial in the past. This proposal provides that if the Office of the City Attorney finds cause that a retail alcohol beverage license should be suspended or revoked, and files a complaint to do so, then the Clerk is authorized by the Common Council to issue a summons. The proposal also provides that a summons may be issued by the Alcohol License Review Committee, as permitted under Sec. 125.12(1)(ar), Wis. Stats. The proposal also clarifies that the parties to a license suspension or revocation proceeding may, by mutual consent, hold the initial hearing more than 10 days after the date of issuance. However, the initial hearing may not be delayed more than 30 days without the consent of the Alcohol License Review Committee. In practice, the initial hearing may need to be delayed because of the unavailability of witnesses or at the licensee's request, in order to hire legal counsel and prepare a defense to the action.

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

Subdivision (ar) of Subsection (1) of Section 38.10 entitled "Revocation, Suspension or Nonrenewal of License" is amended to read as follows:

"(ar) Summons. Upon the filing of the complaint, the Common Council or the Alcohol License Review Committee shall issue a summons, signed by the Clerk and directed to any peace officer in the municipality. If the complaint is filed by the Office of the City Attorney, the City Clerk is authorized to and shall issue and sign a summons, on behalf of the Common Council, directed to any peace officer in the municipality. The Clerk shall notify the Common Council and the Alcohol License Review Committee of the filing of a complaint under this section by the Office of the City Attorney and the issuance of any summons pursuant to it. The summons shall command the licensee complained of to appear before the Alcohol License Review Committee or a special committee designated by the Common Council on a day and time and at a place named in the summons, not less than three (3) days and not more than ten (10) days from the date of issuance, and show cause why the license should not be revoked or suspended. The City and the licensee may mutually agree to waive the time limits relating to the date and time of the initial hearing, except that such waiver shall not delay the initial hearing more than thirty (30) days, without the consent of the Alcohol License Review Committee. The summons and a copy of the complaint shall be served on the licensee at least three (3) days before the time at which the licensee is commanded to appear. Service shall be in the manner provided under Ch. 801, Wis. Stats., for service in civil actions in circuit court."