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Memorandum

August 7, 2015

To: Ordinance and License Committee, Common Council, Mayor, City Administrator, City Clerk
From: Brian Running
Re: Recent Amendments to Chapter 125, Necessary Revisions to Municipal Code §9.11(16)

The recent state budget bill, which took effect on August 1, included some revisions to the alcohol beverage laws. Brand-new section 125.51(2)(e) reads as follows:

1. In this paragraph, "cider" means any alcohol beverage that is obtained from the fermentation of the juice of apples or pears and that contains not less than 0.5 percent alcohol by volume and not more than 7.0 percent alcohol by volume. "Cider" includes flavored, sparkling, and carbonated cider.
2. Notwithstanding s. 125.68 (3), **upon application, a municipal governing body shall grant and issue a "Class A" license to the applicant if all of the following apply:**
 - a. The application is made for a "Class A" license containing the condition that **retail sales of intoxicating liquor are limited to cider.**
 - b. **The applicant holds a Class "A" license issued under s. 125.25 for the same premises for which the "Class A" license application is made.**
3. Notwithstanding par. (a) and s. 125.06(13), a person issued a "Class A" license under subd. 2. may not make retail sales, or provide taste samples, of any intoxicating liquor other than cider. Paragraph (am) does not apply to a person issued a "Class A" license under subd. 2.

In a nutshell, if an applicant already holds a Class "A" beer license, and applies for a "Class A" intoxicating liquor license to sell only cider, then the City must issue that cider license. The new section effectively creates a new class of license, a "Class A intoxicating liquor / cider-only" license.



Municipal Code §9.11(16) presently reads as follows:

(16) SALES IN SERVICE STATIONS. A Class A license for the sale of intoxicating liquor will not be issued to any automobile service station, filling station, convenience store or any establishment where gasoline or other motor fuel is offered for sale to the public and dispensed into motor vehicles.

This creates a conflict with state law. Cider is classified as a wine, and wine falls under the category of intoxicating liquor. Therefore, §9.11(16) prohibits the sale of cider by gas stations and convenience stores with fuel pumps. However, some gas stations and C-stores do hold Class "A" fermented malt beverage licenses, and the new law says that we must give them a Class A cider license if they ask. We presently have a pending application for a Class A cider license from Kwik Trip, and undoubtedly, more will follow.

As you know, we can regulate alcohol beverage sales, so long as our regulations do not conflict with Chapter 125. So, Mun. Code §9.11(16) will have to be amended.

We advise that subsection (16) of Mun. Code §9.11 be repealed and replaced with the following:

(16) Sales of Intoxicating Liquors at Motor Vehicle Fueling Stations Prohibited;
Exception. No "Class A" intoxicating liquor license shall be issued to any establishment at which gasoline, diesel fuel, E85, or any other fuel for motor vehicles is offered for sale to the public; except a "Class A" intoxicating liquor license for the sale of cider only.

Please contact me if you have any questions or comments.

