

..Number

081454

..Version

PROPOSED SUBSTITUTE **B**

..Reference

..Sponsor

ALD. COGGS

..Title

A substitute ordinance relating to qualifications for new Class "B" manager's and Class "D" operator's licenses.

..Sections

90-6-1-c rn

90-6-1-c cr

90-6-1-d cr

..Analysis

This ordinance provides that an applicant for a new Class "B" manager's license or a new Class "D" operator's license is not qualified for the license if the applicant has been convicted of an offense that occurred less than one year prior to the time of application for operating a vehicle while under the influence of alcohol or with a blood alcohol level that exceeds lawful limits.

A Class "B" manager is required to be on the premises of the establishment of Class "B" and Class "C" retailers in the absence of the proprietor, partnership, or the agent of the corporation or limited liability company holding the alcohol beverage license for the premises. A Class "B" manager is responsible for the daily operation of the licensed premises and for personnel management of all employees without regard to whether the manager is authorized to sign employment contracts.

A Class "D" operator's license, commonly referred to as a bartender's license, authorizes the operator to remove from any barrel, keg, cask, bottle, or any other container fermented malt beverages, and to sell or serve fermented malt beverages, intoxicating liquor and wine on appropriately license premises.

..Body

Whereas, The common council finds that the illegal use of alcohol by an individual driving under the influence of alcohol demonstrates a lack of proper judgment in the handling of alcohol to the extent that it places the health, safety and welfare of the public at risk; and

Whereas, Federal and state laws reflect a compelling interest in the proper handling and consumption of intoxicating liquors and other alcohol beverages; and

Whereas, Bartenders serving alcohol beverages to the public are expected to exercise sound judgment in determining whether service is appropriate; and

Whereas, Managers of alcohol retail establishments, having responsibilities for the supervision of all employees including bartenders and for all operations on the premises, are expected to exercise a high level of sound and responsible judgment to maintain an orderly establishment and to assure the safety of staff, patrons and the public: and

Whereas, It is reasonable to allow a period of time for an individual applying for a Class "B" manager's or Class "D" operator's license to demonstrate good behavior following an offense for driving under the influence of alcohol prior to accepting and granting an application for a Class "B" manager's or Class "D" operator's license; and

Whereas, The Wisconsin Legislature has provided in s. 125.04(5), Wis. Stats., that alcohol beverage licenses may be issued only to persons who do not have an arrest or conviction record subject to ss. 111.321, 111.322, 111.335 and 125.12(1)(b), generally requiring that the denial of a license due to arrest or conviction record is only permitted when the offense involves circumstances substantially related to the circumstances of the licensed activity; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 90-6-1-c of the code is renumbered s. 90-6-1-e.

Part 2. Section 90-6-1-c and d of the code is created to read:

90-6. Qualifications for Licenses.

1. PROFESSIONAL CHARACTER.

c. An applicant for a new Class "B" manager's license or a new Class "D" operator's license is not qualified for the license if the applicant has at any time been convicted of an offense that occurred less than one year prior to the time of application for operating a vehicle while under the influence of alcohol or with a blood alcohol level that exceeds lawful limits in violation of the laws and ordinances of this state or comparable provisions of any other jurisdiction. Upon finding that the applicant is not qualified under this paragraph, the city clerk shall reject the application and provide the applicant with written notice of the reason for rejection of the application and that the applicant has a right to contest the finding of disqualification upon requesting a hearing before the licensing committee as provided for new applicants in s. 90-5-8.

d. A person licensed as a Class "B" manager or Class "D" operator shall, upon conviction of an offense of operating a vehicle while under the influence of alcohol or with a blood alcohol level that exceeds lawful limits in violation of the laws and ordinances of this state or comparable provisions of any other jurisdiction, relinquish the license and return it to the city clerk within 5 days of the conviction, and shall not be qualified to apply for a new Class "B" manager license or a Class "D" operator license for a period of one year from the date of conviction.

APPROVED AS TO FORM

Barry Zalber

Legislative Reference Bureau

Date: 7/9/2009

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

..Requestor

..Drafter

LRB08591-5

RLW

7/9/2009