



## Legislation Details (With Text)

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**File created:** 5/9/2006 **In control:** LICENSES COMMITTEE

**On agenda:** **Final action:** 5/31/2006

**Effective date:**

**Title:** A substitute ordinance relating to removal of opened bottles of wine from premises of certain alcohol beverage establishments.

**Sponsors:** James N. Witkowiak

**Indexes:** ALCOHOL - REGULATION AND LICENSING, LICENSES

**Attachments:** 1. Fiscal Note, 2. Notice Published on 6-16-06.PDF

Date	Ver.	Action By	Action	Result	Tally
5/9/2006	0	COMMON COUNCIL	ASSIGNED TO		
5/12/2006	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
5/15/2006	0	CITY CLERK	DRAFT SUBMITTED		
5/16/2006	0	LICENSES COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	4:0
5/31/2006	1	COMMON COUNCIL	PASSED	Pass	14:0
6/8/2006	1	MAYOR	SIGNED		
6/16/2006	1	CITY CLERK	PUBLISHED		

060076  
SUBSTITUTE 1

### ALD. WITKOWIAK

A substitute ordinance relating to removal of opened bottles of wine from premises of certain alcohol beverage establishments.

90-4-2-c-3 rn  
90-4-2-c-3 cr  
90-4-9-b rn  
90-4-9-b cr  
90-4-9-c rn  
90-4-9-d rn  
90-15-3-b am

This ordinance amends the code to allow certain alcohol beverage licensees to sell an opened bottle of wine for consumption away from the licensed premises.

Section 90-4-2-c-2 of the code now prohibits a Class "B" licensed premises from permitting patrons to remove intoxicants or fermented malt beverages in open containers. Section 90-4-9 of the code now authorizes a Class "C" wine retailer to sell or offer for sale wine by the glass or in an opened original container for consumption only on the premises where sold.

The Wisconsin legislature enacted 2005 Wisconsin Act 268, effective April 20, 2006, authorizing

municipalities to amend ordinance restrictions so that Class “B” licensed premises and Class “C” wine retailers may permit the sale of wine in an opened original bottle, in a quantity not to exceed one bottle, for consumption both on and off the premises where sold under certain conditions. These conditions are: that the licensed premises is a restaurant operating under a Class “B” or Class “C” license; that the licensee provides a dated receipt that identifies the purchase of food and the bottle of wine; that prior to removing a partially consumed bottle of wine from the premises, the licensee shall securely reinsert the cork into the bottle to the point where the top of the cork is even with the top of the bottle; that the cork is reinserted after 6 a.m. and before 12 midnight on any day of licensed operation. This ordinance amends the code relating to the regulation of alcohol beverages in strict conformity with the new state law.

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

Part 1. Section 90-4-2-c-3 of the code is renumbered 90-4-2-c-4.

Part 2. Section 90-4-2-c-3 of the code is created to read:

#### **90-4. Classification of Licenses.**

##### **2. CLASS “B” RETAILER’S INTOXICATING LIQUOR LICENSE.**

###### **c. Licensee Restrictions.**

c-3. Notwithstanding the restrictions upon permitting patrons to remove intoxicants in open containers in subd.2, a restaurant operating under a Class “B” tavern license is authorized to sell wine in an opened original bottle, in a quantity not to exceed one bottle, for consumption both on and off the premises where sold at retail if all of the following apply:

c-3-a. The licensee provides a dated receipt that identifies the purchase of food and the purchase of the bottle of wine.

c-3-b. Prior to removing a partially consumed bottle of wine from the premises, the licensee shall securely reinsert the cork into the bottle to the point where the top of the cork is even with the top of the bottle.

c-3-c. The cork is reinserted after 6 a.m. and before 12 midnight on any day of licensed operation.

Part 3. Section 90-4-9-b to d of the code is renumbered 90-4-9-c to e.

Part 4. Section 90-4-9-b of the code is created to read:

##### **9. CLASS “C” WINE RETAILER LICENSE.**

b. Notwithstanding the limitation on consumption of wine on the licensed premises in par. a, a restaurant operating under a Class “C” wine retailer license may sell wine in an opened original bottle, in a quantity not to exceed one bottle, for consumption both on and off the premises where sold at retail if all of the following apply:

b-1. The licensee provides a dated receipt that identifies the purchase of food and the purchase of the bottle of wine.

b-2. Prior to removing a partially consumed bottle of wine from the premises, the licensee shall securely reinsert the cork into the bottle to the point where the top of the cork is even with the top of the bottle.

b-3. The cork is reinserted after 6 a.m. and before 12 midnight on any day of licensed operation.

Part 4. Section 90-15-3-b of the code is amended to read:

**90-15. Hours of Operation.**

**3. CLASS "B" FERMENTED MALT BEVERAGE AND INTOXICATING LIQUOR LICENSEES OR CLASS "B" SERVICE BAR LICENSE.**

b. Special Hours for Sale in Original Packages. Between 9:00 p.m. and 8:00 a.m. no person may sell any intoxicating liquor or fermented malt beverages on any Class "B" licensed premises in an original unopened package, container, or bottle or for consumption away from the premises >>, except as provided in s. 90-4-2-c-3<<.

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau

Date: \_\_\_\_\_  
IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date: \_\_\_\_\_

LRB06190-2  
RLW  
5/15/2006