WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.
330 E. Kilbourn Avenue, Suite 725, Milwaukee, WI 53202-3141
414-727-WILL (9455) | Fax 414-727-6385 | www.will-law.org
Lucas@will-law.org | Direct: 414-727-7415

August 17, 2023

TESTIMONY OF THE WISCONSIN INSTITUTE FOR LAW & LIBERTY IN OPPOSITION TO PROVISIONS OF AB 304/SB 232

Chairman Hutton and Senators,

My name is Lucas Vebber, I am an attorney with the Wisconsin Institute for Law & Liberty ("WILL") out of Milwaukee. WILL is a non-partisan, not for profit law and policy center dedicated to free markets and individual liberty. We are here today to oppose a small piece of this legislation which will, in no uncertain terms, needlessly destroy an entire industry here in Wisconsin. We strongly encourage the committee to amend this legislation, and not use the heavy hand of government to decimate the livelihoods of farmers around the state.

Under current law, a liquor license is required in two instances: (1) when alcohol is sold; and (2) when alcohol is consumed in a "public place." Your home is not a "public place" and so when you have guests over, you do not need a liquor license to serve them a beer, for example.

For years, farmers in Wisconsin have legally rented out their barns to wedding parties to host their private wedding celebrations. The state has long taken the position that they are not "public places" under the statute.[1] Those wedding parties bring their own alcohol and serve it to their guests if they so choose. Since they neither sell alcohol, nor consume it in a public place, brides and grooms throughout Wisconsin have not been required to obtain a liquor license to celebrate their big day.

Certain special interests who view these farmers as competition have been trying, for years, to put these farmers out of business – fortunately their efforts have failed in every previous attempt. And yet again, they are before you pushing these legislative changes as a small part of this broader bill.

Specifically, part of the legislation defines "public place" to include places like wedding barns and other private spaces. Doing so leaves the owner of such a space with two difficult choices. They can either become taverns, obtaining the same Class B liquor license. Or, if they want to continue operating under the business model they

[1] See e.g., https://will-law.org/governor-evers-agrees-with-will-on-legal-status-of-wedding-barns/

have been employing for many years, the bill arbitrarily says they may only operate for a total of six days per year and no more than one day per month. Further, during those limited six days of operating no individual could consume spirits at any of the private events held at the space – so newlyweds would be prohibited by law from toasting with old-fashioneds on their wedding day, for example.

These changes effectively render many wedding barns inoperable and will destroy this industry in Wisconsin. Under this bill the state of Wisconsin will use the power of government to force farmers to choose between operating as they have for years or operating a tavern on their farmland. Furthermore, many zoning ordinances around the state specifically prohibit wedding barns from even applying for a liquor license. For example, Walworth County specifically states "No liquor license shall be applied for or issued for use of the barn for family events. No retail sales shall be allowed on site." Walworth Co. Ord. Sec. 74-61(17).[2] Even if zoning allowed it and the regulatory compliance costs were feasible, many farmers simply do not want to be in the business of running a tavern. These facilities today do not sell alcohol, and they do not want to be in the tavern business: they do not want to have to purchase and resell and serve products, manage inventory, purchase and maintain the necessary infrastructure to store and serve that inventory. It is a business they simply do not want to be in.

While the bill attempts to grandfather in existing wedding barns from Class B quotas, the criteria for who is eligible is severely limited and the bill only allows a limited period to do so. Eligibility for this grandfathering provision is limited to venues that have hosted at least 5 events with 50 or more guests and have made at least $20,000 in revenue from leasing the venue, all within the last 12 months. Any prospective operators that are planning to open in future years would be ineligible for the exception and would be unfairly subjected to quota limits. The bill also specifies a 6-month period for these operators to apply for the exception. For any wedding barn operator that must be granted a zoning change before they're even eligible to apply for a Class B license, it would be difficult to meet this timeline. Even if they successfully navigate this process, a local government can choose not to issue the license.

It's also important to note that many local communities have "abandonment clauses" in their ordinances that would trigger an automatic revocation of a Class B license for a business that isn't open for a minimum number of hours/days or is closed for a period of consecutive days. These requirements can range from community to community, but many require a Class B establishment to be open for 60 to 90 consecutive days or be open a minimum of 180 days per year. Most wedding barns

[2] Available at: https://library.municode.com/wi/walworth_county/codes/code_of_ordinances?nodeId=WACOCOOR_CH74ZO_ARTIIZOOR_DIV4COUS_S74-61AGREUS

operate on a seasonal basis and close during the winter months. For the months they are open, they are also open 2 to 3 days per week and would likely not meet many of these standards.

The consequences of this regulation will also unavoidably result in negative implications for the finances of couples getting married. Wedding barns are favored for various reasons, but mainly due to their cost-effective proposition for hosting weddings in a picturesque setting. As previously stated, farmers will confront the impossible options of shuttering their businesses due to zoning intricacies, constraining event numbers, or undergoing a costly transition by acquiring a Class B license. The effects of these choices will ultimately mean that options for brides and grooms will be limited. Applying simple principles of supply and demand, this means the cost of hosting their wedding will necessarily rise. Which begs the question? Who benefits from this proposal and who are we looking out for?

Moreover, these changes are absolutely not limited to just wedding barns either. Vacation rental homes are impacted because they too would be considered a "public place" under the new legislation unless there are "sufficient beds for all adult guests to sleep." It's easy to imagine a scenario in Wisconsin where a family rents an Airbnb, and they decide to host a family gathering with people that aren't staying in the home, but at a hotel or another rental down the road. Under this scenario, these otherwise law-abiding citizens would be in violation of this law. Are revenue agents going to be kicking down the doors of your Airbnb to count how many beds are available? Do you really want to prohibit all Wisconsin families from renting a lake house and serving Miller Lite at their family reunion? That flies in the face of common sense.

This legislation makes a number of other changes to Wisconsin's three-tier alcohol regulation system. Our opposition today is limited exclusively to the event venue changes. We urge you to remove these event venue changes, which are little more than an attempt to use the heavy hand of government to limit competition and consumer choice.

Thank you for your time and consideration. I'd be happy to answer any questions.