

## **MEMORANDUM**

From: Michael D. Madigan

Re: Pertinent Changes to Minnesota Liquor Laws in the Last 35 Years

### **INTRODUCTION**

Large retail chains, small brewers, and others interested in deregulating the liquor industry often claim that liquor regulations have remained unchanged since prohibition was repealed. Nothing could be further from the truth. Although the need to regulate this potentially dangerous product has certainly not changed, the manner in which we regulate it has been substantially modified in the last twenty years. The Memorandum summarizes some of those changes.

### **MODIFICATIONS TO MINNESOTA LIQUOR LAWS**

1. In 1986, the minimum drinking age was raised from 19 to 21.
2. In 1987, a three-tier, tied-house exception was created for brewpubs. This amendment permitted a retailer licensed under the section to brew up to 2,000 barrels of beer on the premises for consumption solely on the premises. The permit fee was set at only \$500 per year.
3. In 1994, another amendment increased the brewpub production limit from 2,000 barrels to 3,500 barrels. In addition, a brewpub who exceeded 3,500 barrels in a year could apply to the Commissioner for a permit to manufacture more than 3,500 barrels in a year. Also, the permit fee for brewers who manufactured fewer than 2,000 barrels per year was reduced from \$15,000 per year to \$150 per year.
4. "Qualified Brewers" who produce fewer than 25,000 barrels per year do not have to pay the Minnesota beer excise tax (\$4.60 per barrel) but, pursuant to a 1994 amendment, they had to report their production to the Commissioner of Revenue.

5. A 1995 amendment expanded the license privileges of a brewpub by permitting them to hold a retail license (but they cannot hold a manufacturer, importer, or wholesaler license). The 1995 amendment also permitted the sale of Home Brewing Equipment and permitted the seller of such equipment to provide ingredients and brewing equipment to a customer at the store without complying with regulations pertaining to brewers.
6. A 1996 amendment authorized brewers to hold beer tastings at off-sale license premises and municipal liquor stores.
7. Prior to 2003, brewpubs were only permitted to sell the beer that they brewed for consumption on the retail premises. Pursuant to a 2003 amendment, they were permitted to sell their beer off-sale directly to the public in 64 ounce growlers, provided however, that their off-sales may not total more than 50% of their production or 500 barrels, whichever is less. Also, prior to 2003, no retailer could sell alcohol for consumption on the premises between 1:00 am and 8:00 am on Monday through Saturday and after 1:00 am on Sunday. Pursuant to a 2003 amendment, such sales could not be made between 2:00 am and 8:00 am on Monday through Saturday and after 2:00 am on Sunday. In other words, the 1:00 am closing time was extended to 2:00 am.
8. A 2003 amendment authorized brewers to hold beer tastings at on-sale license premises and municipal liquor stores.
9. A 2005 amendment raised the permit fees for brewers producing more than 3,500 barrels a year from \$2,500 per year to \$4,000 per year. It did not raise the \$500 fee for brewers producing under 3,500 barrels per year (which includes most Minnesota brewers). The 2005 amendment conferred yet another competitive advantage to small brewers by permitting any brewer producing fewer than 3,500 barrels a year to sell their beer off-sale directly to the public in 64 ounce growlers. The amendment conferred a further competitive advantage to small brewers and brewpubs by removing the restriction that their growler sales may not exceed 50% of their production. It did leave in place the 500 barrel limitation. It also authorized a municipality to issue to a brewer producing under 3,500 barrels a year a temporary on-sale license in connection with a "social event" within the municipality. Another 2005 amendment expanded the hours that an off-sale retailer could sell alcohol to include Thanksgiving, Christmas Day, or after 8:00 pm on Christmas Eve.

10. A 2007 amendment conferred yet another competitive advantage to small brewers producing under 3,500 barrels a year by permitting them to not only sell growlers off-sale but also permitting them to sell 750 milliliter bottles off-sale. A 2007 amendment permitted the State Agricultural Society to permit the sale of strong beer at the State Fair provided that at least one Minnesota brewed malt liquor is made available for sale at each allowed location.
11. A 2009 amendment extended the hours of sale for a “farm winery”. Previously, they could not sell their wine before noon on Sunday. Pursuant to this amendment, they can now begin selling at 10:00 am on Sunday. In addition, this amendment allowed farm wineries to not only produce wine but also to produce distilled spirits provided that they pay a \$50 fee to Public Safety.
12. A 2011 amendment conferred yet another competitive advantage to small brewers by authorizing taprooms which permits a brewer to have a taproom license on the brewery premise. Pursuant to this amendment, a brewery may have a restaurant on the premises and serve their own beer. It also conferred an advantage small distilleries by creating a “microdistillery” regulatory category. Finally, it permitted farm wineries to sell at a county fair.
13. A 2013 amendment conferred yet another competitive advantage to small brewers by providing that a brewer may get a taproom license in a city with a municipal liquor store. No other retailer has such a privilege. It also authorized brewers who produced more than 3,500 barrels a year to sell growlers and 750 milliliter bottles from their taprooms. The brewer self-distribution privilege, which was previously available to brewers producing 25,000 barrels a year or less, was limited to brewers producing 20,000 barrels a year or less. The amendment permits microdistilleries to provide samples on its premises.
14. A 2014 amendment permitted microdistillers to have a “cocktail room license” and sell directly to the public under certain circumstances. The amendment conferred yet another competitive advantage to small brewers by permitting them to be open and conduct on-sale business on Sundays if authorized by a municipality. The amendment expanded the number of sampling events that a brewer may do in a year at a particular retailer from five to twelve events.
15. A 2015 amendment permitted brewpubs to sell their beer at the Minnesota Craft Brewers Guild area at the Horticultural Building during the State Fair.
16. A new statute enacted in 2015 created a new license for small brewers that expressly permits off-sale of malt liquor at its premises packaged in 64-ounce growlers or 750 mL bottles. This license is authorized for brewers brewing

less than 20,000 barrels per year (or wineries producing less than 250,000 gallons of wine per year), authorized the sale of up to 500 barrels per year for off-sale, and authorized the off-sale of malt liquor in growlers on Sundays.

17. A 2015 amendment specifically created a new statute that authorizes a “brewer taproom license.” While small brewer’s had previously been permitted to open a taproom, this new statute allows all brewers up to 250,000 barrels (or a winery of up to 250,000 gallons of wine annually) to obtain a brewer taproom license for on-sale of malt liquor produced by the brewer. This statute also expressly allows for the holding of a restaurant license at the brewery premises.
18. A 2015 amendment permitted microdistillers to sell to the public for off-sale of distilled spirits. These sales are limited to one 375 mL bottle per customer per day of product manufactured on site.
19. A 2017 amendment increased the sales advantage enjoyed by small brewers and brewpubs by increasing the annual sales limits for growler sales from 500 to 750 barrels.
20. A 2017 amendment authorized “cocktail rooms” to be open and conduct on-sale business on Sundays if authorized by a municipality.
21. A 2017 amendment repealed the Sunday Sales prohibition, authorizing the sale of alcoholic beverage through off-sale retailers on Sundays between the hours of 11:00 a.m. and 6:00 p.m. on Sundays. This amendment also specifically prohibits the delivery of alcohol to an off-sale licensee by a wholesaler and the acceptance of such product by an off-sale retailer on Sundays, as well as order solicitation or merchandising by a wholesaler on a Sunday.