



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.
330 East Kilbourn Ave., Suite 725, Milwaukee, Wisconsin 53202
414-727-WILL
Fax 414-727-6385
www.will-law.org

**TESTIMONY OF THE WISCONSIN INSTITUTE FOR LAW AND LIBERTY
BEFORE THE ASSEMBLY COMMITTEE ON STATE AFFAIRS IN
OPPOSITION TO ASSEMBLY BILL 869**

Chairman Swearingen and Committee Members:

This written testimony is being submitted on behalf of the Wisconsin Institute for Law and Liberty. While we are unable to attend today's hearing in person, we are willing to follow up with anyone who may have questions regarding this testimony. Thank you for the opportunity to provide input on this legislation.

Assembly Bill 869 needlessly combines some "no brainer" issues with an unnecessary expansion of government regulation. Provisions relating to the new regulatory scheme applying to "private event venues" should be removed in their entirety. The public does not need them.

This new and unneeded regulation is the price that the public must pay for an extension of operating hours for restaurants during the DNC this summer. We have no opposition to that part of the legislation. In fact, it seems like a salutary bit of deregulation during a major event in downtown Milwaukee. These comments focus solely on the attempt to impose a heavy regulatory burden on successful small businesses and entrepreneurs in our state.

The unnecessary and objectionable part of the bill seeks to regulate "private event venues as taverns. As noted below, the bill does not make clear just who is subject to this new regulation – always a mistake in legislation – but we do know that none of these venues are allowed to sell alcohol. At a certain level, that's all we need to know. Regulating businesses who cannot sell alcohol in the same way as taverns is absurd. While we understand the desire of some taverns in our state to use the government to stamp out any potential competitor – including those who only allow persons to consume alcohol at a private event – the state ought not accommodate that desire.

Unfortunately for private event venues around Wisconsin, this legislation also includes vague definitions that provide little guidance and will be difficult for them to comply with, even if they want to pay the \$750 fee to operate their business as they have for years without issue.

Earlier attempts to protect the taverns in this way were noted for their unintended consequences. They would have banned tailgating, among other unseen consequences. This attempt tries to limit the proposal's anticompetitive impact but it comes up short. The term "private event" is not defined in the bill or in existing Chapter 125, and so it is unclear who is even going to be restricted by the terms of this bill. Does it include a Super Bowl party? A birthday party? A retirement party?

The bill, by its plain terms, does not apply to "vacation rental property, or any other property of temporary lodging that is used for overnight accommodations if the property is furnished with sufficient beds for all adult guest to sleep." Can a couple that rents a one bedroom cabin for a week bring their adult children and drink wine with dinner? Can they have a birthday party with friends and family? Host a family reunion for a day? What constitutes "sufficient beds"? These vague terms give no guidance or comfort to thousands of Wisconsinites who will be impacted by this proposal.

Further, while this bill attempts to fix the tailgating bans that were previously proposed, it still does not go far enough. Property "used primarily for parking" is exempt from permitting, as is property "within a local professional football stadium district created under subch. IV of ch. 229 *if the property is used in connection with, and on the same day as, a professional football game held at the football stadium*" (emphasis added). But what happens if someone wants to rent out their front lawn to park near Lambeau when the Badgers play Notre Dame this year? A lawn is not "used primarily for parking" and it would not be on the same day that a professional football game is held at the stadium.

But the problem with the bill goes beyond its applicability to vacationers and tailgaters. Why should a private event venue – a business that does not sell alcohol and is not open to the general public – have to be regulated as if it does both. The only reason is to make it harder for them to do business and to eliminate a form of competition. That is *not* a proper function of government.

The vagueness of this legislation is especially troubling because of the heavy-handed nature of the bill – anyone who violates these provisions is subject to arrest and seizure of their property, and faces jail time and fines.

Although we doubt it, it is possible that these problems could be fixed. But it is not going to happen if this new regulatory scheme is passed because it is the price having Milwaukee open for business during the DNC. These issues are all things that should be flushed out in separate legislation, properly debated on the merits.

Please remove the provisions creating licensing for private event venues before this legislation moves forward.

Thank you for your time, and again, please feel free to contact us should there be any questions.

Sincerely,

Rick Esenberg
Rick@will-law.org

Lucas Vebber
Lucas@will-law.org