STATE OF WISCONSIN CIRCUIT COURT TREMPEALEAU COUNTY
BRANCH 1

FARMVIEW EVENT BARN, LLC, et al.,

Plaintiffs,

v. Case No. 24-CV-0062

WISCONSIN DEPARTMENT OF REVENUE, et al.,

Defendants.

DEFENDANTS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT

INTRODUCTION

Plaintiffs' response focuses on their theme that the challenged provisions of 2023 Wis. Act 73 were enacted to "make their business model unlawful," (Doc. 60:2), and "discriminate against rural entrepreneurs in favor of politically connected special interests," (Doc. 60:3). Their rhetoric aside, Act 73's challenged provisions pass rational basis review because they bear a conceivable, rational connection to the legitimate state objectives of promoting and regulating the responsible consumption of alcohol and decreasing the incidence of drunk driving on our roads and highways by shifting the large-scale consumption of alcohol from rural wedding barns to other venues.

Nothing more needs to be shown to uphold the challenged laws, and Plaintiffs' assertions about Act 73's "illegitimate anti-competitive purpose," (Doc. 60:4), are unsupported by material evidence and showcase their misunderstanding that they are entitled to engage in a business venture unimpeded by changes in the law. Laws change regularly, impacting countless business models. Plaintiffs are asking the Court to shore up their business model by striking down a validly enacted law. But "[o]ur form of government provides for one legislature, not two." *Flynn v. DOA*, 216 Wis. 2d 521, 529, 576 N.W.2d 245 (1998). This Court should grant summary judgment to Defendants and dismiss this case with prejudice.

ARGUMENT

I. Plaintiffs concede that rational basis review is appropriate and "a high standard."

The Court correctly determined that it would apply rational basis review to Plaintiffs' constitutional claims. (Doc. 43:4.) Plaintiffs' concede that such review applies and "reserve the right to make . . . arguments for heightened scrutiny on appeal," should one be filed. (Doc. 60:5.) They also concede that "[r]ational basis review is a high standard." (Doc. 60:16.)

II. The challenged laws are rationally related to legitimate state objectives and therefore survive rational basis scrutiny.

Defendants argued that the challenged provisions of Act 73 are rationally related to legitimate state objectives and are therefore

constitutional. (Doc. 58:2–3; 46:20–23, 26–35.) Those arguments will not be repeated. Not much more needs to be said, as the competing positions are briefed well by both sides.

A. Act 73 is consistent with the Legislature's purpose in Wis. Stat. § 125.01, namely, the statewide, uniform regulation of alcohol beverages to benefit public health and welfare.

Plaintiffs argue that the challenged provisions in Act 73 "are contrary to the Legislature's stated interests." (Doc. 60:6.) They assert that Act 73's "regulatory framework" "is in no way *uniform*, and thus [is] not consistent with the legislature's stated interest" in Wis. Stat. § 125.01. (Doc. 60:7.) They again focus on exemptions in Act 73 that were apparently enacted to exclude tailgating outside Brewers and Packers games from the law's coverage. (*See* Doc. 60:8, 10.) Plaintiffs' argument fails for two reasons.

First, Plaintiffs misinterpret the law. Statutory language is interpreted "reasonably, to avoid absurd or unreasonable results." *State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, ¶ 46, 271 Wis. 2d 633, 681 N.W.2d 110. The language at issue is in 2023 Wis. Act 73, § 24w (to be codified at Wis. Stat. § 125.09(1)(c)5.–6.). It exempts property "within a local professional football stadium district created under subch. IV of ch. 229" or "within a local professional baseball park district created under subch. III of ch. 229" "if the property is used in connection with, and on the same day as, a professional" football or baseball "game, or other ticketed event open to the public, held at

the" stadium or ballpark. 2023 Wis. Act 73, § 24w (to be codified at Wis. Stat. § 125.09(1)(c)5.–6.). The law thus applies equally throughout the state. And even if, currently, there are only two counties with professional sports districts under Wis. Stat. ch. 229, it is unreasonable to interpret this language as Plaintiffs do: to allow for unlicensed, unpermitted, free drinking events throughout *all* of Brown and Milwaukee counties simply because someone purchased a ticket to the Packers Hall of Fame or to an off-season event at American Family Field. (*See* Doc. 60:8, 50:5–6, 17, 21–22, 24.)

Second, the other challenged provisions in Act 73 likewise apply uniformly statewide—Plaintiffs cite to nothing providing otherwise. In other words, a wedding-barn event venue in the Town of Berlin or the Town of Preston is regulated under Act 73 the same as one in Brown or Milwaukee County. (*See* Doc. 50:23–24.) Act 73 does not violate Wis. Stat. § 125.01's uniformity principle, and it instead furthers the stated goal of regulating, statewide, the "consumption of alcohol beverages . . . for the benefit of the public health and welfare." Wis. Stat. § 125.01.

B. Plaintiffs mischaracterize what they call Defendants' "parking lots" argument, which highlights why their claims fail under rational basis review.

Plaintiffs are preoccupied with a provision in Act 73 that exempts from the definition of "public place" "[a] parking lot, driveway, or yard where vehicles may be parked on the same day as a professional or collegiate sporting

event or other ticketed event open to the public." 2023 Wis. Act 73, § 24w (to be codified at Wis. Stat. § 125.09(1)(c)4.); (*see* Doc. 60:10–13, 16). They characterize what they call "Defendants' 'parking lots' argument" as "flawed, and a perfect example of why Act 73 is not rationally related to their pretextual after-adoption rationale." (Doc. 60:11.)

Plaintiffs misconstrue Defendants' argument. The exemption in Act 73 for parking lots, driveways, and yards where vehicles are parked on the same day as professional or collegiate sporting events or other ticketed events was apparently intended to preserve the time-honored Wisconsin tradition of tailgating. With tailgating comes tailgaters who drink alcohol and some who, unfortunately, drive drunk. But that does not make Act 73 unconstitutional simply because it does not try to do away with tailgating.

The Legislature could have included parking lots, driveways, and yards where tailgating occurs as public places subject to Act 73's requirements. But it did not *have to* do so to avoid the law being declared unconstitutional because, under rational basis review, lawmakers may "implement their program step by step . . . adopting regulations that only partially ameliorate a perceived evil and deferring complete elimination of the evil to future regulations." *City of New Orleans v. Dukes*, 427 U.S. 297, 303 (1976). Act 73 includes some event spaces and business and excludes others. The Legislature

could rationally table the task of solving the problems from alcohol consumption during tailgate events for another day.

C. Plaintiffs' equal protection arguments fail for the reasons Defendants argued.

Plaintiffs argue a five-step test for their equal protection claim. (*See* Doc. 60:14–15.) That test is not necessary here because what matters is that the challenged laws are rationally related to a legitimate state objective to pass constitutional muster. (*See* Doc. 58:11.) In any event, Defendants argued why Plaintiffs' equal protection claim fails under the five-step methodology, too. (Doc. 58:12–14.) Plaintiffs offer nothing materially different or new in their response, (*see* Doc. 60:13–17), so Defendants stand by their arguments that Act 73 does not violate Plaintiffs' equal protection rights.

D. Plaintiffs' claim in Count 4 regarding the no-sale event venue permit law also fails, as Defendants argued.

Lastly, Plaintiffs' claim in Count 4 regarding the no-sale event venue permit law also fails on the merits. (*See* Doc. 46:31–34; 58:16.) Plaintiffs offer nothing new or different in support of their argument in response. (Doc. 60:17–18.) These challenged provisions of Act 73 pass rational basis review, as argued.

CONCLUSION

This Court should grant summary judgment to Defendants and dismiss this case with prejudice.

Dated this 31st day of October 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed Defendants' Reply Brief in Support of Their Motion for Summary Judgment with the clerk of court using the Wisconsin Circuit Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 31st day of October 2025.

Electronically signed by:

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