



Underage Persons Allowed in Bowling Centers' Bar Areas

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In *City of Stoughton v. Erik J. Olson*, the Wisconsin Court of Appeals held that the exemption for “bowling centers” in Wis. Stat. § 125.07(3)(a)3, which allows underage individuals to be present in a bowling center establishment that is licensed to sell alcoholic beverages, does not exclude portions of a bowling center that are dedicated primarily to the sale or consumption of alcohol.

Viking Lanes is a bowling center located in the city of Stoughton that holds a combination Class B beer and liquor license. In 2017, a police officer entered the bowling center’s bar area and observed an underage individual present in the space. The officer cited, Erik J. Olson, the bartender present, and Carter Smith, the bowling center’s owner, for allowing an underage person to be present on the licensed premises. The city had enacted an ordinance adopting Wis. Stat. § 125.07(3), which, in part, authorizes penalties against a “licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of par. (a).” The municipal court found Olson and Smith guilty of violating the ordinance and they subsequently appealed to circuit court, arguing that there was no liability under Wis. Stat. § 125.07(3) because the “bowling center” exemption applied to the bar area as well. The city argued the exemption did not apply because the underage individuals were in an area of the premises dedicated primarily to the sale and consumption of alcohol. The circuit court dismissed the citations on the basis that the “bowling center” exemption applies to the entire facility. The city then appealed.

The court of appeals looked to the statutory history of Wis. Stat. § 125.07(3) and to the 1966 Wisconsin Supreme Court case, *State v. Ludwig*,¹ to interpret the bowling center exemption. In *Ludwig*, the Supreme Court interpreted an earlier version of Wis. Stat. § 125.07(3) that exempted “bowling alleys” from the prohibition against underage individuals being present on licensed premises, holding that the exemption didn’t apply to Ludwig’s establishment because the layout was such that the bar area was physically separate from the bowling alley area and the statute’s “overall purpose was to prevent minors from being exposed to establishments where alcohol is sold and consumed, and that the purpose of the exemptions was to avoid imposing ‘an undue burden’ upon minors in their ‘attempt to enjoy entertainment, travel, and the like.’”²

¹ *State v. Ludwig*, 31 Wis. 2d 690, 143 N.W.2d 548 (1966).

² *City of Stoughton v. Erik J. Olson*, No. 2019AP1872, slip op., ¶ 14 (Wis. Ct. App. Sep. 3, 2020).

The court of appeals distinguished *Ludwig* stating it “addressed a situation where the exempted premises, a bowling alley, was under the same roof as but separate from a barroom”³ and it was clear whether a person was in the bowling alley or the barroom. The court further distinguished *Ludwig* stating it “did not carve out a portion of the bowling alley from the exemption;”⁴ rather, it “concluded that a barroom that was under the same roof as but distinct from a bowling alley could not take advantage of the bowling alley exemption.”⁵ The court also noted that the statute has undergone many changes since *Ludwig*. In particular, the legislature amended the “bowling alley” exemption to the current “bowling center” language, which is more expansive than the predecessor language.

The court also pointed out that interpreting the “bowling center” exemption to exclude areas dedicated primarily to the sale or consumption of alcohol would render such specific language included in another exemption for indoor volleyball courts to be surplusage. Such a reading would also defeat the purpose of several other exemptions, such as one allowing underage individuals to participate in a brewery tour, as a brewery is clearly dedicated to the sale or consumption of alcohol.

Ultimately, the court of appeals held that the plain language of the statute, as it now reads, applies to all areas within a bowling center and does not exclude those areas dedicated primarily to the sale or consumption of alcohol. Accordingly, the exemption applied to the entire Viking Lanes establishments, including the bar area, and the court affirmed the circuit court’s dismissal of the citations.

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³ *Id.* at ¶ 25 (internal quotations omitted).

⁴ *Id.*

⁵ *Id.*