



Phil Mullin

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 591**

123rd General Assembly  
(As Introduced)

**Reps. Trakas, Schuler, Taylor, Carey, Goodman, Williams, Redfern**

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### **BILL SUMMARY**

- Allows C-1, C-2, and C-2x permit holders to sell tasting samples of the alcoholic beverages they are authorized to sell.
- Creates the D-8 permit to be issued to certain retail stores to allow the sale of tasting samples of beer, wine, and mixed beverages.
- Allows agency stores to sell spirituous liquor in 50 milliliter containers under certain conditions.
- Allows local option elections on Sunday sale of intoxicating liquor between the hours of 10 a.m. and midnight.
- Makes changes in the law governing local option elections on beer and liquor sales at specific locations.

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### **CONTENT AND OPERATION**

#### **Sale of tasting samples by C-1, C-2, and C-2x permit holders**

The bill allows a C-1 or C-2x permit holder to offer for sale tasting samples of beer, and allows a C-2 permit holder to offer for sale tasting samples of wine and certain mixed beverages, in an amount not to exceed two ounces or another amount designated by rule of the Liquor Control Commission. A tasting sample must not be sold for general consumption, and each authorized purchaser must be limited to four tasting samples to allow the purchaser to determine, by tasting only, the quality and character of the specific beverage. (Secs. 4301.62(C), 4303.11(B)(1), and 4303.12(B)(1).)

In order for a C-1, C-2, or C-2x permit holder to sell these tasting samples, the permit holder must pay a fee that the Liquor Control Commission must

determine by rule. This fee must be added to the application or renewal fee that the C-1, C-2, or C-2x permit holder pays for the permit. (Secs. 4303.11(B)(2) and 4303.12(B)(2).)

C-1 and C-2x permits authorize the sale of beer, and the C-2 permit authorizes the sale of wine and certain mixed beverages, for off-premises consumption (secs. 4303.11(A) and 4303.12(A); sec. 4303.121, not in the bill).

### **Creation of the D-8 permit**

The bill creates the D-8 permit and allows it to be issued to the owner or operator of a retail store that has either of the following characteristics: (1) the store has at least 5,500 square feet of floor area and it generates more than 60% of its sales in general merchandise items and food for consumption off the premises where sold, or (2) wine constitutes at least 60% of the value of the store's inventory (sec. 4303.184(A)).

A D-8 permit holder may sell tasting samples of beer, wine, and mixed beverages, but not spirituous liquor, at retail, for consumption on the premises where sold in an amount not to exceed two ounces or another amount designated by rule of the Liquor Control Commission. A tasting sample must not be sold for general consumption. Each authorized purchaser must be limited to four tasting samples to allow the purchaser to determine, by tasting only, the quality and character of the beer, wine, or mixed beverage. In addition to the privileges authorized by the bill, but subject to the limitations on the sale of beer, wine, and mixed beverages described in the bill, a D-8 permit holder may exercise the same privileges as a D-5 (night club) permit holder. (Sec. 4303.184(B).)

The bill forbids a D-8 permit holder from selling beer or intoxicating liquor for consumption on the premises where sold after 2:30 a.m. A D-8 permit must not be transferred to another location, and no quota restrictions can be placed on the number of D-8 permits that may be issued. The fee for the D-8 permit is \$1,875. (Sec. 4303.184(C) to (F).)

Finally, the bill amends several Revised Code sections to reflect the creation of the D-8 permit (secs. 4301.355(B), 4301.62(C), 4303.07, 4303.10, 4303.182(A) and (E), 4303.30, 4303.35, and 4399.12).

### **Sale of spirituous liquor in 50 milliliter containers**

The bill allows a state liquor store or an agency store (a retail establishment that sells spirituous liquor on behalf of the Division of Liquor Control of the Department of Commerce under a contract with the Division) to sell spirituous

liquor in 50 milliliter containers, but only if the containers are in sleeves, are not sold individually, and are only sold from behind a counter (sec. 4301.17(A)(3)).

**New questions on Sunday sale of intoxicating liquor between 10 a.m. and midnight**

**Existing law**

Existing law generally prohibits the sale of intoxicating liquor on Sunday after 2:30 a.m. by a permit holder, unless the sale has been approved in a local option liquor election held in the election precinct in which the premises is located (sec. 4301.22(D), not in the bill; sec. 4303.182(A)--under the bill). Three questions currently govern the Sunday sale, *between 1 p.m. and midnight*, of intoxicating liquor that may be legally sold in an election precinct or part of an election precinct on days of the week other than Sunday. One question deals with sales of wine and mixed beverages for off-premises consumption, a second question deals with sales of intoxicating liquor for on-premises consumption, and a third question deals with sales of intoxicating liquor for on-premises consumption at premises where the sale of food and other goods and services exceeds 50% of the total gross receipts of the permit holder at the premises. (Sec. 4301.351(B)(1), (2), and (3)--under the bill, and sec. 4301.354(B)(1), (2), and (3)--under the bill.)

**Changes proposed by the bill**

The bill creates three additional questions regarding the Sunday sale of intoxicating liquor. The questions are substantively the same as those that may be submitted in an election precinct under existing law, except that these new questions govern intoxicating liquor sales between *10 a.m. and midnight on Sunday*. (Secs. 4301.351(C)(1), (2), and (3) and 4301.354(C)(1), (2), and (3).) As under existing law, the results of the election on these additional Sunday sales questions stay in effect until another election is held in the precinct on the same question, but no election can be held on the same question in the same precinct more than once in each four years (secs. 4301.361, 4301.364, and 4301.37(B) and (D)).

**Changes in procedure for local option elections on sales at a particular location**

**Background law**

Existing law allows a local option election to be held in an election precinct on the sale of beer and intoxicating liquor at a particular location within the precinct if the petitioner for the election is one of the following: (1) an applicant for the issuance or transfer of a liquor permit at, or to, a particular location within the precinct, (2) the holder of a liquor permit at a particular location within the

precinct, (3) a person who operates or seeks to operate a liquor agency store at a particular location within the precinct, or (4) the designated agent for an applicant, permit holder, or liquor agency store described in items (1), (2), or (3) above (sec. 4301.333(A); sec. 4303.323, not in the bill).

#### **Change in the form of the petition and accompanying documents**

Existing law requires that the petition for the election described in the immediately preceding paragraph contain written evidence of the designation of the petitioner as the agent for an applicant, liquor permit holder, or liquor agency store, if the petitioner is such an agent. The bill instead requires that this written evidence be provided to the board of elections, not in the petition, but separately at the time the petitioner files the petition with the board. (Sec. 4301.333(B)(3) and (C)(1)(b).)

Existing law requires that, when a petition describes the type of each liquor permit applied for by an applicant or held by a permit holder, it also must describe the type of beer or intoxicating liquor sales authorized by each of these permits. The bill removes the requirement that the petition describe the type of beer or intoxicating liquor sales authorized by each of these permits. (Sec. 4301.333(B)(3)(a).)

Finally, the bill provides that failure to supply the affidavit required to be filed with the petition under existing law, or to supply the written evidence of the designation of an agent (when applicable), at the time the petition is filed invalidates the entire petition (sec. 4301.333(C)(2)).

#### **Wording of the questions presented to voters**

Under the bill, the questions that will be placed on the ballot and that must be described in the petition seeking an election on sales at a particular location must refer to the specific type or types of alcoholic beverages (beer, "wine and mixed beverages," or intoxicating liquor) to be sold under the permit sought for or sold under the permit issued to the particular premises, or sold at the liquor agency store, that is the subject of the election. Under existing law, these questions refer only to "beer and any intoxicating liquor." (Secs. 4301.333(B)(1), 4301.355(B), and 4301.365(A), (B), (C), (D), and (E).)

#### **Required minimum time period between elections**

Existing law provides that, when a local option election is held on sales at a particular location, the results of that election are generally in effect at that location until another election is held on sales at that location, but no such election can be held on sales at that location regarding the same use for a period of *at least*

*four calendar years* from the date of the most recent election on that question. The bill instead requires that this time period be *at least four years* from that date. (Sec. 4301.37(E).)

The bill also makes the latter change with regard to the minimum time period between elections on beer and liquor sales at a community facility that are held in an entire municipal corporation or the entire unincorporated area of a township (sec. 4301.37(F)). A "community facility" is either of the following: (1) certain convention, sports, or entertainment facilities or complexes, or any combination of them or (2) an area designated as a community entertainment district by a municipal corporation or township (sec. 4301.01(B)(19), not in the bill).

**Relationship of election on sales at a particular location to elections affecting all or part of a precinct**

Existing law specifies that the results of a local option election held in a precinct on sales at a particular location do not prohibit the holding of, *but are affected by the results of*, a local option election that applies to all premises within the precinct or a part of the precinct. The bill instead provides that the results of an election on sales at a particular location are *not* affected by the results of either of these other types of elections. (Sec. 4301.37(E).)

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	03-02-00	p. 1635

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