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Bill Analysis
Legislative Service Commission

Sub. H.B. 529*
124th General Assembly
(As Reported by S. Agriculture)

**Reps. Wolpert, Kearns, Webster, Schmidt, Husted, Seitz, Collier, Flowers,
Clancy, Coates**

BILL SUMMARY

- Changes local option elections on Sunday sales of intoxicating liquor that allow sales between 1 p.m. and midnight to instead allow sales between 11 a.m. and midnight.
- Authorizes certain Sunday liquor sales to begin at 11 a.m. even if the sales previously were approved by the voters to commence at 1 p.m., but allows voters to hold an election to revert the time of commencement to 1 p.m. in accordance with certain conditions.
- Makes other changes in the law governing local option elections on Sunday sales of beer and intoxicating liquor at or in election precincts, parts of a precinct, specific locations, and community facilities.
- Eliminates the authority of the Division of Liquor Control to order liquor permit holders to stop selling intoxicating liquor to certain persons.
- Authorizes the Division to share Social Security numbers with other state agencies for specific purposes and to seek Bureau of Criminal Identification and Investigation and Federal Bureau of Investigation criminal records checks for specified persons.
- Changes the annual permit fees for A-2 (wine manufacturing), B-2 (wholesale wine distribution), and B-4 (wholesale mixed beverages distribution) permit holders.

** This analysis was prepared before the report of the Senate Agriculture Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Authorizes a state institution of higher education or a private college or university to qualify to be issued the D-5a permit even if the hotel or motel that it owns does not contain at least 50 rooms for registered transient guests.
- Eliminates the requirement that persons who order special varieties or brands of spirituous liquor from the Division must secure the order with a deposit.
- Revises the deadline for paying a permit fee when a person applies for a liquor permit.
- Eliminates the required use of Ohio grapes and fruits by A-2 permit holders.
- Allows the Division to sell spirituous liquor in 50 milliliter sealed containers to airlines that hold an E permit.
- Changes provisions that require the disclosure of shareholders of a corporation that is an applicant or a permit holder, and specifies disclosures for limited liability companies that are applicants or permit holders.
- Corrects outdated references to the "Department of Liquor Control" and the "Director of Liquor Control."
- Revises other provisions of the Liquor Control Law.

TABLE OF CONTENTS

Overview of current law on Sunday sales of beer, wine and mixed beverages, or intoxicating liquor	3
Changing Sunday sale of intoxicating liquor questions from between the hours of 1 p.m. and midnight to between 11 a.m. and midnight	4
Current law.....	4
Changes proposed by the bill.....	5
Conflicts with Sub. H.B. 371 of the 124th General Assembly.....	6
Changes in procedure for local option elections on liquor sales at a particular location.....	7
Change in the petition requirements and in the wording of the questions on the ballot	7
Effect of election concerning Sunday liquor sales.....	7

Changes in procedure for local option elections on liquor sales at a community facility.....	8
Change in the petition requirements and in the wording of the questions on the ballot	8
Effect of election concerning Sunday liquor sales.....	8
Division of Liquor Control's authority to order liquor permit holders to stop selling intoxicating liquor to certain persons	9
Sharing of Social Security numbers with other state agencies	9
Criminal records checks	9
Change in fees for A-2, B-2, and B-4 permit holders	10
D-5a permit for university-owned or college-owned hotels or motels.....	11
Elimination of required deposit for special orders from the Division of Liquor Control.....	11
Payment and refund of liquor permit fees	12
Application fees and annual permit fees	12
Canceled permits	12
Uniform expiration dates.....	13
Elimination of required use of Ohio grapes and fruits by A-2 permit holders	13
Sale of spirituous liquor in 50 milliliter sealed containers to airlines.....	13
Change in the required disclosures of applicants and permit holders.....	13
Application process.....	13
Ownership changes	14
Division permit-related refusal authority	14
Conflicts of interest by employees of the Liquor Control Commission and Division of Liquor Control	15
Correction of outdated references	15

CONTENT AND OPERATION

Overview of current law on Sunday sales of beer, wine and mixed beverages, or intoxicating liquor

Current 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 election held in the election precinct in which the premises is located (sec. 4301.22(D), not in the bill; and sec. 4303.182(A)). Questions may be submitted to the voters at a primary or general election to allow the sale of beer, wine and mixed beverages, or intoxicating liquor on Sundays either between the hours of 10 a.m. and midnight or between 1 p.m. and midnight. The question or questions

submitted may govern sales in an election precinct, in a specific area of an election precinct, at a particular location, or at a community facility.¹

Changing Sunday sale of intoxicating liquor questions from between the hours of 1 p.m. and midnight to between 11 a.m. and midnight

Current law

Under current law, seven questions govern the Sunday sale 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. Four of the questions for election precincts and three of the questions for parts of election precincts pertain to sales between the hours of 1 p.m. and midnight, and three of the questions for both election precincts and their parts pertain to sales between 10 a.m. and midnight. One question from each time period pertains to sales of wine and mixed beverages for off-premises consumption, another question from each time period pertains to sales of intoxicating liquor for on-premises consumption, and a final question from each time period pertains to 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. A seventh question for election precincts pertains to intoxicating liquor sales between the hours of 1 p.m. and midnight for on-premises consumption at an outdoor performing arts center. The latter question may be presented to the voters of a precinct in which an outdoor performing arts center is located only by the legislative authority of the municipal corporation in which, or by the board of trustees of the township in which, the center is located and only within a specified period of time. (Secs. 4301.351(B)(1), (2), (3), and (4) and (C)(1), (2), and (3) and 4301.354(B)(1), (2), and (3) and (C)(1), (2), and (3).)

Current law specifies how the results of local option elections affect the sale of intoxicating liquor at locations wishing to sell intoxicating liquor on Sundays in election precincts or parts of election precincts. If the voters of a precinct or part of a precinct, whichever applies, approve the sale of intoxicating

¹ "Community facility" means either of the following: (a) any convention, sports, or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a convention facilities authority created under current law, or (b) an area designated as a community entertainment district pursuant to current law (sec. 4301.01(B)(19), not in the bill).

liquor on Sundays, locations within the precinct or part of a precinct are authorized to sell intoxicating liquor. (Secs. 4301.361 and 4301.364.)

Changes proposed by the bill

Certain Sunday sale hours and D-6 permits. Under the bill, the questions governing the Sunday sale of intoxicating liquor are substantively the same as those that may be submitted in an election precinct under current law, except that the bill changes the questions governing the hours of Sunday sale of intoxicating liquor between 1 p.m. and midnight to apply to Sunday sale of intoxicating liquor between 11 a.m. and midnight (secs. 4301.351(B)(1), (2), (3), and (4) and 4301.354(B)(1), (2), and (3)). The bill also generally requires that the sale of intoxicating liquor be permitted between the hours of 11 a.m. and midnight on Sunday under a D-6 permit (Sunday liquor sales) if the sale of intoxicating liquor between the hours of 1 p.m. and midnight was approved at a local option election before the bill's effective date except as discussed below (sec. 4303.182(A)(3)). Finally, the bill requires that a D-6 permit be issued to the holders of specified liquor permits if Sunday sales are allowed as the result of an election in or at an election precinct, a specific area of a precinct, a particular location, or a community facility during specified hours. (Sec. 4303.182(A).)

Exception special election. The bill allows the electors in a precinct in which the commencement time for sales is changed by the bill's operation to 11 a.m. (see above) to hold an election to revert that time to 1 p.m. This election must be held at the first general election that occurs after the bill's effective date unless that general election will be held less than 135 days after that date, in which case the election must be held at the immediately following general election. The bill also provides that if a petition is filed for submission of the question of whether the sale of intoxicating liquor must be permitted on Sunday between 1 p.m. and midnight, a special election must be held in the precinct as provided in the bill. The expenses of holding the election must be charged to the municipal corporation or township of which the precinct is a part. (Section 4(A) and (B).)

At the election, one or more of the "11 a.m. to midnight" questions, as described by the bill (see above), must be submitted to the electors of the precinct, except that the starting time for sales under each question must be stated as 1 p.m. rather than 11 a.m. However, a question pertaining to outdoor performing arts centers can be presented to the electors of the applicable precinct only if the legislative authority of the municipal corporation, or the board of trustees of the township, in which the center is located submits, not later than 4 p.m. of the 75th day before the day of a general election as described above and that occurs within two years after April 9, 2001, to the board of elections of the county in which the precinct is located, a copy of an ordinance or resolution requesting the submission

of that question to the electors of the precinct. An election on such a question cannot be sought by a petition under existing law. (Section 4(B).)

The bill requires that any election held under these provisions to revert the starting time to 1 p.m. must be held in accordance with the applicable requirements and provisions governing election that are held under the Liquor Control Law (Section 4(C)).

Permitted hours of sale and effective period of election. The bill specifies that locations in a precinct or part of a precinct, whichever applies, generally are only authorized to sell intoxicating liquor on Sunday during the hours specified in the relevant questions--either 10 a.m. to midnight or 11 a.m. to midnight. As under current law, the results of elections on the Sunday liquor sales questions remain in effect until another election is held on the same question for the precinct or part of the precinct, but no election can be held on the same question for the precinct or part of the precinct more than once every four years. (Secs. 4301.361, 4301.364, and 4303.182(A); and sec. 4301.37(B) and (D), not in the bill.)

Validity of pending petitions; application of bill's requirements to commencement time of sales. Under the bill, if a petition seeks the holding of an election on Sunday liquor sales on or after the bill's effective date under the questions seeking approval of Sunday sales for an election precinct, a specific area of a precinct, a specified location, or a community facility (which question now generally refers to "1 p.m. to midnight," but the bill changes to "11 a.m. to midnight") and the petition contains signatures that were placed on it before that date, the petition is not invalid merely because the question or questions sought to be submitted to the voters and contained in the petition state that Sunday liquor sales will commence beginning at 1 p.m. rather than 11 a.m. (Section 3(A)).

Additionally, the bill requires the results of an election that is held on Sunday sales for an election precinct, a specific area of a precinct, a specific location, or a community facility and in which the petition that sought the election stated that Sunday sales would commence beginning at 1 p.m. rather than 11 a.m. to be governed by the changes made by the bill to the statutes governing such Sunday sales (Section 3(B)).

Conflicts with Sub. H.B. 371 of the 124th General Assembly

Both the bill and Sub. H.B. 371 of the 124th General Assembly amend various provisions of existing law regarding petitions for, questions concerning, and results of local option elections for Sunday liquor sales at a particular location. The bill states that if both bills are enacted, this bill's changes to those provisions supercede the changes made by Sub. H.B. 371 if the changes cannot be harmonized (Section 5).



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

Change in the petition requirements and in the wording of the questions on the ballot

Petition. Current law allows a local option election to be held in an election precinct on the sale of beer, wine and mixed beverages, or 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 such an applicant, permit holder, or liquor agency store (sec. 4301.323, not in the bill; and sec. 4301.333(A)).

The petition for the election described above currently must contain all of the following: (1) a notice that the petition is for the submission of a question or questions seeking an election on sales of beer, wine and mixed beverages, or intoxicating liquor at a particular location, (2) the name of the applicant for the issuance or transfer, or the holder, of the liquor permit or, if applicable, the name of the liquor agency store, including any trade or fictitious names under which the applicant, holder, or liquor agency store either intends to do or does business at the particular location, and (3) the address and proposed use of the particular location within the election precinct to which the results of the question or questions will apply (sec. 4301.333(B)(1), (2), and (3)). The bill specifies that a petition that seeks approval of Sunday sales at a particular location also must contain a statement indicating whether the hours of sale sought are between 10 a.m. and midnight or between 11 a.m. and midnight (sec. 4301.333(B)(4)).

Ballot. Under current law, the wording of a Sunday liquor sales question that is placed on the ballot must state whether beer, wine and mixed beverages, or intoxicating liquor is to be sold under the permit sought for, or under the permit issued to, the particular premises, or is to be sold at the liquor agency store, that is the subject of the election (sec. 4301.355(B)). Under the bill, the question also must specify that the sale of beer, wine and mixed beverages, or intoxicating liquor on Sunday will be either between the hours of 10 a.m. and midnight or between 11 a.m. and midnight (sec. 4301.355(B)(2)).

Effect of election concerning Sunday liquor sales

Current law specifies how the results of a local option election concerning Sunday sales at a particular location affect the sale of beer, wine and mixed beverages, or intoxicating liquor at the location. If the voters in a precinct approve



the Sunday sale of beer, wine and mixed beverages, or intoxicating liquor at a particular location, the location is allowed to sell whichever was the subject of the election. The bill adds that the location specified in a question generally is only authorized to sell beer, wine and mixed beverages, or intoxicating liquor during the hours authorized under the bill and approved in the local option election. (Secs. 4301.365(A) and (D) and 4303.182(A).)

Changes in procedure for local option elections on liquor sales at a community facility

Change in the petition requirements and in the wording of the questions on the ballot

Petition. Current law allows a local option election to be held in a municipal corporation or the unincorporated area of a township on the sale of beer and intoxicating liquor at a community facility located within the municipal corporation or unincorporated area if the petitioner for the election presents a petition and other specified information to the board of elections of the county in which the community facility is located. The petition must contain both of the following: (1) a notice that it is for the submission of a question authorizing the sale of beer and intoxicating liquor on all days of the week except Sunday and between the hours of 1 p.m. and midnight on Sunday at a particular community facility, and (2) the name and address of the community facility and, if the community facility is a community entertainment district, the boundaries of the district. (Sec. 4301.334(A).) The bill specifies that the petition also must include a statement indicating whether the hours of Sunday sales sought in the local option election are between 10 a.m. and midnight or between 11 a.m. and midnight (sec. 4301.334(A)(1)).

Ballot. Under current law, the question for a local option election authorizing the Sunday sale of beer and intoxicating liquor at a community facility specifies that the sale can only occur on days of the week other than Sunday and between the hours of 1 p.m. and midnight on Sunday. The bill changes the hours of Sunday sale specified on the ballot question from between 1 p.m. and midnight to (a) between 10 a.m. and midnight or (b) between 11 a.m. and midnight, on Sunday, whichever time period is sought. (Sec. 4301.356.)

Effect of election concerning Sunday liquor sales

Under current law, if a majority of the voters approve the sale of beer and intoxicating liquor at a community facility, the community facility is authorized to sell beer and intoxicating liquor for the use specified in the question. The bill provides that the sale of beer and intoxicating liquor is allowed on Sunday at a community facility generally only during the hours approved by the voters, either

between 10 a.m. and midnight or between 11 a.m. and midnight. (Secs. 4301.366 and 4303.182(A).)

Division of Liquor Control's authority to order liquor permit holders to stop selling intoxicating liquor to certain persons

Current law prohibits a permit holder from selling intoxicating liquor to any individual: (1) who habitually drinks intoxicating liquor to excess or (2) to whom the Division of Liquor Control, after investigation, has determined to prohibit the sale of intoxicating liquor. The Division's determination must be based on cause shown by the spouse, parent, sibling, or other person dependent on or in charge of the individual or cause shown by the mayor of the municipal corporation or a township trustee of the township in which the individual resides. (Sec. 4301.22(C).) Current law also grants a cause of action to a spouse, child, parent, guardian, employer, or other person who is injured in person, property, or means of support by an intoxicated individual, or in consequence of the habitual or other intoxication of an individual, after the Division issues and during the existence of an order prohibiting the sale of intoxicating liquor to that individual. The cause of action is against any person who sells or gives intoxicating liquors to that individual that cause that individual's intoxication in whole or in part. (Sec. 4399.01.) Also, under certain circumstances, a building or premises owner, lessee, or other renter is jointly or severally liable with the person who sells or gives intoxicating liquors to an individual who is the subject of such a Division order and who causes any of the described injuries (sec. 4399.02).

The bill eliminates these provisions and makes conforming and other technical changes in related statutes (secs. 4301.22(C), 4301.24, 4301.99(B) and (D), 4303.203(D) and (F), 4399.01 (outright repealed by the bill), 4399.02, 4399.04, 4399.07, 4399.08, and 4399.18(A)(2)).

Sharing of Social Security numbers with other state agencies

The bill authorizes the Division of Liquor Control to provide the Social Security number of an individual that the Division possesses to the Department of Public Safety, Department of Taxation, Attorney General's office, or any other state agency if the department, office, or agency requests the number to conduct an investigation, implement an enforcement action, or collect taxes (sec. 4301.77).

Criminal records checks

The bill authorizes the Division of Liquor Control to request from the Bureau of Criminal Identification and Investigation (BCII) pursuant to procedures specified in current law, or to coordinate with appropriate federal, state, and local government agencies to accomplish, criminal records checks for any person whose



identity must be disclosed by an applicant for the issuance or transfer of ownership of a liquor permit (hereafter, covered person) (see "*Change in the required disclosures of applicants and permit holders*," below). At or before the time of making a request for a criminal records check, the Division may require a covered person to submit to the Division valid fingerprint impressions in a format or by any media or means acceptable to the BCII and, when applicable, the Federal Bureau of Investigation (FBI). The Division may cause the BCII to conduct a criminal records check through the FBI only (1) if the person for whom the check would be conducted resides or works outside Ohio or has resided or worked outside Ohio during the preceding five years, or (2) if a criminal records check conducted by the BCII within Ohio indicates that the person may have a criminal record outside Ohio.

In the case of a criminal records check made pursuant to current law procedures, the Division must forward to the BCII the requisite form, fingerprint impressions, and fee. When requested by the Division in accordance with the bill's conditions discussed in (1) and (2) above, the BCII must request from the FBI any information it has with respect to the covered person who is the subject of the criminal records check and must forward the requisite fingerprint impressions and information to the FBI for that check. After conducting a criminal records check or receiving the results of such a check from the FBI, the BCII must provide the results to the Division.

The Division may require any covered person about whom a criminal records check is requested to pay to the Division the amount necessary to cover the fee charged to it by the BCII, including, when applicable, any fee for a criminal records check conducted by the FBI. (Secs. 109.572(A)(1), (B), and (C)(1), (2), and (3) and 4301.10(B)(5).)

Change in fees for A-2, B-2, and B-4 permit holders

Current law assesses a fee of \$63 on each holder of an A-2 permit (authorizing wine manufacturing) for each plant producing 100 wine barrels, of 50 gallons each, or less annually. This fee is increased at the rate of 10¢ per barrel for all wine manufactured in excess of 100 barrels during the year covered by an A-2 permit. The bill establishes a flat fee of \$150 for each plant producing wine and eliminates the 10¢ per barrel fee increase contained in current law. (Sec. 4303.03.)

Current law assesses a fee of \$250 on each holder of a B-2 permit (authorizing wholesale wine distribution) for each distributing plant or warehouse. This fee is increased at the rate of 10¢ per wine barrel of 50 gallons for all wine distributed and sold in Ohio in excess of 1,250 barrels during the year covered by a B-2 permit. The bill establishes a flat fee of \$300 for each distributing plant or

warehouse and eliminates the 10¢ per barrel fee increase contained in current law. (Sec. 4303.07.)

Current law assesses a fee of \$250 on each holder of a B-4 permit (authorizing wholesale mixed beverage distribution) for each distributing plant or warehouse. This fee is increased at the rate of 10¢ per wine barrel of 50 gallons for all mixed beverages distributed and sold in Ohio in excess of 1,000 barrels during the year covered by a B-4 permit. The bill establishes a flat fee of \$300 for each distributing plant or warehouse and eliminates the 10¢ per barrel fee increase contained in current law. (Sec. 4303.09.)

D-5a permit for university-owned or college-owned hotels or motels

Current law creates the D-5a permit, which may be issued to: (1) the owner or operator of a hotel or motel that is required to be licensed under the Hotel Law, that contains at least 50 rooms for registered transient guests, and that meets certain other requirements, or (2) to the owner or operator of a restaurant affiliated with such a hotel or motel. The D-5a permit authorizes the sale of beer and intoxicating liquor at retail for consumption both on and off the premises where sold and to guests in their rooms. The sales to guests in their rooms may be by means of a controlled access alcohol and beverage cabinet. (Sec. 4303.181(A).)

The bill also authorizes the D-5a permit to be issued to: (1) the owner or operator of a hotel or motel that is required to be licensed under the Hotel Law, that is owned by a state institution of higher education or by a private college or university, and that meets certain other requirements, or (2) the owner or operator of a restaurant affiliated with such a hotel or motel. Thus, under the bill, a hotel or motel that a state institution of higher education or a private college or university owns need not contain at least 50 rooms for registered transient guests in order to be issued a D-5a permit. (Sec. 4303.181(A).)

Elimination of required deposit for special orders from the Division of Liquor Control

Under current law, if any person desires to purchase any variety or brand of spirituous liquor that is not in stock at a state liquor store or agency store, the Division must immediately procure the variety or brand after the purchaser makes a reasonable deposit in proportion to the approximate cost of the order. Unless the purchaser pays for the spirituous liquor and accepts delivery within five days after receiving a notice from the Division that the order has arrived, the Division may place the spirituous liquor in stock for general sale, and the purchaser forfeits the deposit. The bill maintains this current law with the exception that it removes the requirement that the purchaser make a deposit to secure the special order. (Sec. 4301.19.)

Payment and refund of liquor permit fees

Application fees and annual permit fees

Current law requires that, when an application for the issuance of a permit is filed, the applicant must remit to the Division of Liquor Control the annual liquor permit fee established by law. If the permit is not issued within 120 days from the date of remittance, the Division must return the fee to the applicant. If the Division eventually decides to issue the permit, it must notify the applicant or the applicant's agent by certified mail; then, the applicant, within 30 days after the mailing of the notice, must redeposit the fee plus any fee increases that have occurred since the initial remittance of the fee. If the applicant fails to redeposit the fee, the applicant's application must be canceled. (Sec. 4303.24.)

The bill instead requires an applicant to remit an application fee, but not the annual permit fee prescribed by law, when the applicant applies for the issuance of a liquor permit. As under current law, the Division must notify the applicant or the applicant's agent by certified mail of its intention to grant the requested permit. The applicant, within 30 days after the mailing of the notice, must pay the entire amount of the requisite annual permit fee if the permit is issued during the first six months of the year it covers or one-half of that requisite fee if the permit is issued during the last six months of the year it covers. If the applicant fails to pay the requisite amount within this 30-day period, the Division must cancel the applicant's application. (Sec. 4303.24.)

Canceled permits

Current law requires that, whenever the Division cancels a liquor permit, it generally must refund to the permit holder, the permit holder's executors, administrators, receivers, or trustees in bankruptcy, or an assignee for the benefit of the permit holder's creditors a proportionate amount of the annual permit fee "representing the unexpired portion of the holder's permit year." However, the refund cannot exceed 90% of the fee, and, if the unexpired portion of the permit year is less than 30 days, no refund can be made. The bill eliminates the requirement that the Division refund any portion of the permit fees. (Sec. 4301.41.)

The bill also repeals related provisions that require a municipal corporation or township to refund to the Division 90% of the money that it has received from the Undivided Liquor Permit Fund in the state treasury and that is attributable to the unexpired portion of a liquor permit that is canceled because a local option election has prohibited sales under that permit (secs. 4301.30 and 4301.39(I) and (J)).

Uniform expiration dates

Under current law, when the Superintendent of Liquor Control considers it advisable to cancel the unexpired portion of a permit in order that the permit may be issued on a uniform expiration date that the Superintendent designates, the Division may credit or refund the unexpired portion of permit fees outstanding or collect any additional amounts due resulting from the new uniform expiration date. The bill instead authorizes the Division to grant only a credit in this situation. (Secs. 4301.41 and 4303.27.)

Elimination of required use of Ohio grapes and fruits by A-2 permit holders

The holder of an A-2 permit currently must manufacture wine from grapes or other fruits grown in Ohio if they are obtainable in Ohio. If the grapes or other fruits are not so obtainable, the permit holder may import them from other states, but only after the permit holder submits an affidavit of nonavailability to the Division of Liquor Control. The bill repeals these provisions. (Sec. 4303.03.)

Sale of spirituous liquor in 50 milliliter sealed containers to airlines

Current law allows the Division of Liquor Control to sell spirituous liquor (intoxicating liquor containing more than 21% of alcohol by volume) at wholesale in 50 milliliter sealed containers to hotels that sell that liquor by means of a controlled access alcohol and beverage cabinet in individual rooms. The bill additionally authorizes the Division to sell these containers at wholesale to airlines that have been issued an E permit (authorizing on-premises sales by airlines and railroads). (Sec. 4301.19.)

Change in the required disclosures of applicants and permit holders

Application process

Under current law, if an applicant for a liquor permit is a corporation, the applicant must list on the application, among other items, the names of each officer of the corporation and of each person owning or controlling 10% or more of the corporation. The bill instead requires that if the applicant is a corporation *or limited liability company*, the applicant must list on the application whichever of the following apply: (1) the names of each officer of the corporation, (2) the names of *each officer* of the limited liability company, if it has officers, and the names of the *managing members* of the company or its *managers if the management of the company is not reserved to its members*, (3) the names of each person owning or controlling *5% or more* of the capital stock of the corporation rather than 10% or more of the corporation, and (4) the names of each person

owning or controlling 5% or more of either the *voting interests* or *membership interests* in the limited liability company. (Sec. 4303.293(A).)

Ownership changes

Current law requires that, whenever the person to whom a permit has been issued is a corporation and any transfer of the corporation's stock is proposed that would change the owner of the majority of the shares of stock in the corporation, the proposed transfer must be considered a proposed transfer of ownership of the permit. The permit holder then must apply to the Division of Liquor Control for a transfer of ownership of the permit. The bill instead requires that whenever the person to whom a permit has been issued is a corporation *or limited liability company* and any transfer of the corporation's stock *or the limited liability company's membership interests* is proposed that would change: (1) the owner of the majority *or plurality* of the shares of stock in the corporation, or (2) the owner of the majority or plurality of the limited liability company's *membership interests*, the proposed transfer of stock or membership interests must be considered a proposed transfer of ownership of the permit, causing its holder to apply to the Division for transfer of its ownership. (Sec. 4303.293(A).)

Division permit-related refusal authority

Current law authorizes the Division to refuse to issue, transfer the ownership of, or renew, and requires the Division to refuse to transfer the location of, any retail permit if it finds, among other grounds, that any shareholder owning 10% or more of the applicant's capital stock: (1) has been convicted at any time of a crime that relates to fitness to operate a liquor establishment, (2) has operated liquor permit businesses in a manner that demonstrates a disregard for the laws, regulations, or local ordinances of Ohio or any other state, (3) has misrepresented a material fact in applying to the Division for a permit, or (4) is in the habit of using alcoholic beverages or dangerous drugs to excess or is addicted to the use of narcotics (sec. 4303.292(A)(1)).

The bill instead authorizes the Division to refuse to issue, transfer the ownership of, or renew, and requires the Division to refuse to transfer the location of, any retail permit if it finds that either of the following falls into any of the categories described in items (1) to (4) above: (a) any shareholder of a corporation who owns 5% or more of the applicant's capital stock, or (b) any member of a limited liability company who owns 5% or more of either the applicant's voting interests or membership interests (sec. 4303.292(A)(1)).

Conflicts of interest by employees of the Liquor Control Commission and Division of Liquor Control

Current law prohibits the Superintendent of Liquor Control, any member of the Liquor Control Commission, or any appointee or employee of the Commission or the Division of Liquor Control from having any direct or indirect financial interest in the manufacture, distribution, or sale of beer or intoxicating liquor. The bill instead prohibits the Superintendent, any Commission member, or any Commission or Division *employee* from having any *direct* financial interest in, *or any interest otherwise prohibited by the Ohio Ethics Law* or related Criminal Code statutes in, the manufacture, distribution, or sale of beer or intoxicating liquor. (Sec. 4301.07.)²

Correction of outdated references

The bill changes several outdated references from the "Department of Liquor Control" to the "Division of Liquor Control" and from the "Director of Liquor Control" to the "Superintendent of Liquor Control" (secs. 307.697(D), 351.26(B), 924.51(A), 4301.07, 4301.30, 4301.424(A), and 4303.271(B)). The Department of Liquor Control was abolished and became a division within the Department of Commerce on July 1, 1997, and on that date the office of Director of Liquor Control became the office of Superintendent of Liquor Control.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-27-02	pp. 1476-1477
Reported, H. State Gov't	05-22-02	p. 1798
Passed House (91-2)	05-29-02	pp. 1822-1823
Reported, S. Agriculture	---	---

H0529-RS.124/jc

² *The Criminal Code statutes relate to the offenses of having an unlawful interest in a public contract (sec. 2921.42) and soliciting improper compensation (sec. 2921.43).*

