



Jeff Grim

Final Analysis
Legislative Service Commission

Sub. H.B. 140

126th General Assembly
(As Passed by the General Assembly)

Reps. Carmichael, D. Stewart, Setzer, T. Patton, Barrett, Beatty, Blasdel, Brown, Buehrer, Carano, Cassell, Chandler, Coley, DeGeeter, Domenick, D. Evans, Faber, Harwood, Hughes, Key, McGregor, Otterman, Perry, Seaver, Seitz, Yuko, Trakas

Sens. Austria, Mumper, Niehaus, Schuler

Effective date: *

ACT SUMMARY

- With certain exceptions, authorizes the Liquor Control Commission to issue an order allowing a liquor permit holder to pay a forfeiture rather than have the permit revoked, and establishes requirements and procedures for that purpose.
- Authorizes entities involved in the manufacture or distribution of beer or intoxicating liquor to conduct consumer product instruction, or to provide sample servings of their products, at certain retail permit holders' premises without having to obtain a retail liquor permit.

CONTENT AND OPERATION

Payment of forfeiture rather than revocation of liquor permit

Continuing law authorizes the Liquor Control Commission to issue an order allowing the holder of a liquor permit issued under state liquor law to pay a forfeiture rather than having the holder's permit suspended for a specified number of days and establishes requirements and procedures for that purpose (sec. 4301.252(A), (B), and (C)). The act also authorizes the Commission to issue an

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

order allowing a permit holder to pay a forfeiture rather than having the holder's permit revoked.

The act states that, except as provided in the act (see below), when the Commission determines that the permit of any permit holder is to be revoked under state liquor law or any rule of the Commission, the Commission may issue an order allowing a permit holder to elect to pay a forfeiture rather than to revoke the permit holder's permit issued for the premises at which the violation occurred.

When the Commission issues an order allowing a permit holder the option of paying a forfeiture rather than revoking the permit holder's permit, the order must notify the permit holder of the option of paying a forfeiture. The order must state: (1) the effective date of the revocation of the permit as 28 days after the date on which the order is sent, (2) that the permit holder has 21 days after the date on which the order is sent to pay the full amount of the forfeiture by bank check, certified check, or money order, and (3) that, if the permit holder does not do so, the permit holder's permit issued for the premises at which the violation occurred will be revoked on the effective date stated in the order. If the permit holder fails to pay the full amount of the forfeiture within 21 days after the date on which the order is sent, the Commission must issue an order revoking the permit holder's permit issued for the premises at which the violation occurred. The revocation must be effective on the 28th day after the date on which the order allowing the payment of a forfeiture is sent. A permit holder is considered to have paid a forfeiture when the permit holder's bank check, certified check, or money order is received by the Commission in Columbus. Upon receipt of a permit holder's payment, the Commission must promptly notify the Division of Liquor Control of its receipt. (Sec. 4301.252(D).)

When the evidence and the nature of any violation of state liquor law show that continued operation of the permit premises presents a clear and present danger to public health and safety, or if the Commission finds, upon reliable, probative, and substantial evidence, that the statutory elements of a felony committed in connection with the operation of the permit premises are present in the action for which the permit holder is being disciplined, the Commission may revoke the permit issued for the premises at which the violation occurred and cannot allow the permit holder to pay a forfeiture instead of revoking the permit holder's permit. In addition, no permit holder is permitted to pay a forfeiture instead of having the permit holder's permit issued for the premises at which the violation occurred revoked if the revocation is ordered for either of the following reasons:

(1) Failure of the permit holder to pay an excise tax together with any penalties imposed by the law relating to that failure and violation of any rule of the Department of Taxation in pursuance of the tax and penalties; or

(2) Conviction of the permit holder for the illegal use of food stamps or Women, Infants, and Children Program benefits. (Sec. 4301.252(D) and sec. 4301.25(A)(6) and (B), not in the act.)

Liquor samples offered by manufacturers and wholesale distributors

The act authorizes a manufacturer, supplier, broker, or wholesale distributor of beer or intoxicating liquor or an agent, solicitor, or salesperson who is registered with the Division of Liquor Control and represents the manufacturer, supplier, broker, or wholesale distributor to conduct consumer product instruction, or to provide sample servings of the manufacturer's, supplier's, broker's, or wholesale distributor's products, on the premises of a retail permit holder who is authorized to sell the products for on-premises consumption without any of those persons having to be issued a retail permit under the Liquor Control Law. The person providing a sample serving must purchase the beer or intoxicating liquor at the ordinary retail price from the permit holder whose premises are involved. The Liquor Control Commission must adopt rules in accordance with the Administrative Procedure Act to implement those provisions. (Sec. 4303.251.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-16-05	p. 330
Reported, H. State Gov't	06-02-05	p. 900
Passed House (95-0)	06-14-05	p. 951
Reported, S. Agriculture	10-13-05	p. 1492
Passed Senate (32-0)	10-18-05	pp. 1631-1632
House concurred in Senate amendments (94-1)	10-19-05	pp. 1739-1740

05-hb140-126.doc/kl

