



Phil Mullin

Final Analysis
Legislative Service Commission

Am. Sub. S.B. 102
127th General Assembly
(As Passed by the General Assembly)

Sens. Schuler, Spada, Niehaus, D. Miller, Kearney, Clancy, Mumper

Reps. Seitz, Schneider, Carmichael, D. Stewart, Driehaus, Blessing, Daniels, Domenick, Dyer, Flowers, R. Hagan, Harwood, Huffman, Hughes, Letson, Luckie, Mallory, J. McGregor, Otterman, Raussen, Wagoner, Yuko

Effective date: *

ACT SUMMARY

- Creates an F-8 liquor permit, and authorizes the permit to be issued to certain nonprofit organizations to allow the sale of beer and intoxicating liquor at specific events that occur on public spaces that the organizations manage.
- Changes the population quota governing the number of state agency liquor stores in a county, effectively authorizing more agency stores.
- Declares an emergency.

CONTENT AND OPERATION

The act authorizes the Division of Liquor Control to issue an F-8 liquor permit to a not-for-profit organization that manages, for the benefit of the public and by contract with a political subdivision of Ohio, publicly owned property. The F-8 permit authorizes the permit holder to sell beer or intoxicating liquor¹ by

* 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.

¹ Intoxicating liquor is wine, mixed beverages, and spirituous liquor. "Spirituous liquor" includes all intoxicating liquors containing more than 21% of alcohol by volume (R.C. 4301.01(B)(5), not in the act).

the individual drink at specific events conducted on the publicly owned property and appurtenant streets, but only if, and then only at times at which, the sale of beer and intoxicating liquor on the premises is otherwise permitted by law. Additionally, an F-8 liquor permit may be issued only if the publicly owned property is located in a county that has a population of between 750,000 and 900,000 on the act's effective date. The premises on which an F-8 permit will be used must be clearly defined and sufficiently restricted to allow proper supervision of the permit's use by state and local law enforcement officers. (R.C. 4303.208(A)(1) and (2).)

The act requires sales under an F-8 liquor permit to be confined to the same hours that are permitted to the holder of a D-3 liquor permit, which allows retail sales until 1 a.m. (R.C. 4303.208(A)(2)). The act prohibits any F-8 liquor permit holder from selling beer or intoxicating liquor beyond the hours of sale allowed by the permit. The act imposes strict liability on the holder of an F-8 liquor permit and on any officer, agent, or employee of that permit holder. (R.C. 4303.208(C).) A person who violates the prohibition is guilty of a misdemeanor of the fourth degree (R.C. 4303.99(D)).

The fee for the issuance of an F-8 liquor permit is \$1,700. An F-8 liquor permit is effective for a period not to exceed nine months as specified in the permit. An F-8 liquor permit is not transferable or renewable. However, the holder of an F-8 liquor permit may apply for a new F-8 liquor permit at any time. An F-8 liquor permit is not effective until any F-8 liquor permit currently held expires. The holder of an F-8 liquor permit must make sales only at those specific events about which the permit holder has notified in advance the Division, the Department of Public Safety, and the chief, sheriff, or other principal peace officer of the local law enforcement agencies having jurisdiction over the premises. (R.C. 4303.208(A)(3).)

The act states that an application for the issuance of an F-8 liquor permit is subject to the notice and hearing requirements established under continuing law for the issuance of C and D liquor permits (R.C. 4303.208(B)(1)). Under those requirements, when a person applies for a permit, the Division must notify the legislative authority and the chief peace officer of the municipal corporation if the business or event is located wholly or partly within a municipal corporation or the clerk of the board of county commissioners and the fiscal officer of the board of township trustees and the chief peace officer of the county or township if the business or event is located wholly or partly within the unincorporated territory of a county. In addition, if the business or event is to be operated within 500 feet of a school, church, library, public playground, or township park, the Division must notify the authorities in control of the school, church, library, public playground, or township park.

The notice must provide an opportunity for a complete hearing on the advisability of the issuance of the permit. A request for a hearing must be made not later than 30 days from the time of notification. In the hearing, no objection to the issuance of the permit can be based on noncompliance of the proposed permit premises with local zoning regulations that prohibit the sale of beer or intoxicating liquor, in an area zoned for commercial or industrial uses, for permit premises that would otherwise qualify for a proper permit issued by the Division. (R.C. 4303.26(A), not in the act.)

The Liquor Control Commission must adopt rules under the Administrative Procedure Act that are necessary to administer the act's provisions governing the issuance of F-8 liquor permits (R.C. 4303.208(B)(2)).

Change in the population quota governing the number of state agency liquor stores allowed in a county

Continuing law allows five state liquor stores or agency stores² to be established in each county. Prior law further allowed one additional store to be established in each county for each 25,000 of population of that county or major fraction thereof in excess of the first 40,000, according to the last preceding decennial census or population estimates certified by the Department of Development between decennial censuses.

The act changes the quota described above to allow one additional store to be established in each county for each 20,000 of population of that county or major fraction thereof in excess of the first 40,000. (R.C. 4301.17(A)(1).) The effect of this change is potentially to increase the number of agency stores.

HISTORY

ACTION	DATE
Introduced	03-08-07
Reported, S. Agriculture	05-02-07
Passed Senate (32-0)	05-09-07
Reported, H. State Gov't & Elections	06-12-07
Passed House (95-3)	06-27-07
Senate concurred in House amendments (26-6)	06-27-07

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² An agency store sells spirituous liquor for off-premises consumption on behalf of the Division of Liquor Control.