



*Phil Mullin*

*Final Analysis*  
*Legislative Service Commission*

**Sub. S.B. 150**  
127th General Assembly  
(As Passed by the General Assembly)

**Sens. Roberts, Fedor, Bocchieri, D. Miller, Kearney, Schuler, Austria, Cafaro, Cates, Clancy, Faber, Gardner, Grendell, Harris, Mason, Morano, Niehaus, Padgett, Sawyer, Schuring, Spada, Stivers, Wilson, Carey**

**Reps. Daniels, Hite, D. Stewart, Domenick, Flowers, Boyd, Evans, Garrison, Hughes, Patton, Sayre, S. Williams, Zehringer**

**Effective date:** \*

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**ACT SUMMARY**

- Authorizes liquor permit holders to accept military identification cards as proof of a purchaser's age in order to qualify for an affirmative defense to a violation of the liquor law in which age is an element.
- Requires a driver's or commercial driver's license, identification card issued under the Driver's License Law, or military identification card that is used to show proof of a purchaser's age to display a picture of the individual for whom the license or card was issued.
- Requires the Division of Liquor Control to provide retail permit holders with a notice of permissible forms of identification for purposes of qualifying for the affirmative defense.
- Clarifies the laws that govern the sale and direct shipment of wine by inserting references to the B-2a and S permits in appropriate Revised Code sections.

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\* 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.

- Increases from 150,000 to 250,000 gallons the maximum annual amount of wine that a wine manufacturer can produce and qualify for a B-2a or S permit.
- Clarifies the amount of wine a family household can purchase in one year.
- Specifies the distribution of permit fees paid by B-2a and S permit holders, their liability for paying supplier registration fees, and their liability for collecting and paying certain wine taxes.
- Clarifies the sales authority of A-2 (wine manufacturing) permit holders regarding sales to retailers and consumers.
- Exempts certain outdoor orchestral performances from the Open Container Law.
- Creates the D-5l liquor permit to be issued in revitalization districts.
- Expands the municipal corporations in which a D-5j permit may be issued in entertainment districts.
- Allows the sale of beer and liquor without a permit at a private residence for charitable, benevolent, or political purposes.
- Creates the D-5m permit to be issued at a center for the preservation of wild animals and exempts such a center that has been issued a D liquor permit from the operation of the Local Option Liquor Election Law.
- Eliminates the independent audit required of D-5i and D-8 permit holders relating to the percentage of their sales that are beer, wine, or liquor.
- Eliminates the requirement that an A-4 permit holder submit to the Division of Liquor Control information about formulas, beverages manufactured, labels, and advertising matter.
- Eliminates certain one-year Ohio residency requirements for applicants for liquor permits.
- Allows the Department of Taxation to share with other state agencies certain information relating to beer and liquor taxes.

- Makes changes relating to reporting requirements and the tax payment period for wine and mixed beverage manufacturers and wholesalers.
- Restricts the solicitation of orders for the sale of beer or intoxicating liquor.
- Authorizes the Division of Liquor Control to allow or require a state liquor agency to establish and maintain bank accounts, at the Division's discretion either under the name of the state or the business account of the state liquor agency, for the deposit of money received from the sale of spirituous liquor.
- Makes other changes in the Liquor Control Act.

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## CONTENT AND OPERATION

### *Proof of age to buy beer or intoxicating liquor*

Under continuing law, no permit holder, agent or employee of a permit holder, or any other person may be found guilty of a violation of the Liquor Control Act or any rule of the Liquor Control Commission in which age is an element of the offense if the Commission or any court of record finds that certain conditions are met. One of those conditions is that the person buying, at the time of so doing, exhibited to the permit holder, the agent or employee of the permit holder, or the other person a driver's license or commercial driver's license or an identification card issued under the Driver's License Law showing that the person buying was then at least 21 years of age if the person was buying beer or intoxicating liquor or that the person was then at least 18 years of age if the person was buying any low-alcohol beverage.<sup>1</sup>

The act modifies the condition described above by specifying that a person buying, at the time of so doing, as an alternative to exhibiting a driver's or commercial driver's license or identification card, also may exhibit to the permit holder, the agent or employee of the permit holder, or the other person a military identification card issued by the United States Department of Defense that displays a picture of the individual for whom the license or card was issued.<sup>2</sup> The act retains the requirement that the license or card show that the person buying was then at least 21 years of age if the person was buying beer or intoxicating liquor or that the person was then at least 18 years of age if the person was buying any low-alcohol beverage and applies the requirement to military identification cards. (Sec. 4301.639(A)(1).)

The Division of Liquor Control must notify all holders of retail permits of the forms of permissible identification for the purposes of qualifying for an affirmative defense under the act not later than 90 days after the effective date of the act (sec. 4301.10(A)(10) and Section 3).

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<sup>1</sup> "Beer" includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of 1% or more, but not more than 12%, of alcohol by volume. "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, not in the act.)

<sup>2</sup> Continuing law requires that a driver's license, commercial driver's license, and identification card contain a photograph of the licensee or card holder (R.C. 4506.11(A)(2), 4507.13, and 4507.52, not in the act).

### **Creation of the D-51 liquor permit**

The act creates the D-51 permit and authorizes it to be issued to the owner or operator of a retail food establishment or a food service operation licensed under the Retail Food Establishment and Food Service Operation Laws. A D-51 permit holder may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and may sell beer and intoxicating liquor in the same manner and same amounts not for consumption on the premises where sold as may be sold by the holders of D-1 (beer sales) and D-2 (wine and mixed beverage sales) permits and may exercise the same privileges, and must observe the same hours of operation, as the holder of a D-5 (night club) permit. (R.C. 4303.181(L)(1).)

The D-51 permit may be issued only to a premises (1) that has gross annual receipts from the sale of food and meals that constitute not less than 75% of its total gross annual receipts, (2) that is located within a revitalization district (see below), (3) that is located in a municipal corporation or township in which the number of D-5 (night club) permits exceeds the number of those permits that may be issued in that municipal corporation or township under the population quota restrictions for that permit found in continuing law, and (4) that is located in a county with a population of 125,000 or less according to the population estimates certified by the Department of Development for calendar year 2006 (R.C. 4303.181(L)(2)). The location of a D-51 permit may be transferred only within the geographical boundaries of the revitalization district in which it was issued and cannot be transferred outside the geographical boundaries of that district (R.C. 4301.181(L)(3)).

Not more than one D-51 permit can be issued within each revitalization district for each five acres of land located within the district. Not more than five D-51 permits may be issued within a single revitalization district. Except for these restrictions, no quota restriction can be placed upon the number of D-51 permits that may be issued (R.C. 4303.181(L)(4)).

The fee for a D-51 permit is \$2,344 (R.C. 4303.181(L)(5)).

The act also makes several conforming changes to reflect the creation of the D-51 permit (R.C. 4301.355(B)(2), 4301.62(C)(1)(a), 4303.182(A) and (L), 4303.30, and 4399.12).

### **Revitalization districts**

The act defines a "revitalization district" as a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the

following types of establishments within the district, or other types of establishments similar to these: hotels, restaurants, retail sales establishments, enclosed shopping centers, museums, performing arts theaters, motion picture theaters, night clubs, convention facilities, sports facilities, entertainment facilities or complexes, or any combination of these establishments that provide similar services to the community (R.C. 4301.81(A)).

Any owner of property located in a municipal corporation<sup>3</sup> seeking to have that property, or that property and other surrounding property, designated as a revitalization district must file an application seeking the designation with the mayor of the municipal corporation in which the property is located. Any owner of property located in the unincorporated area of a township<sup>4</sup> seeking to have that property, or that property and other surrounding property, designated as a revitalization district must file an application seeking the designation with the board of township trustees of the township in whose unincorporated area the property is located. (R.C. 4301.81(B).)

An application to designate an area as a revitalization district must contain all of the following information: (1) the applicant's name and address, (2) a map or survey of the proposed revitalization district in sufficient detail to identify the boundaries of the district and the property owned by the applicant, (3) a general statement of the nature and types of establishments described above that are or will be located within the proposed revitalization district and any other establishments located in the proposed district that are not described above, (4) if some or all of the establishments within the proposed revitalization district have not yet been developed, the proposed time frame for completing the development of these establishments, (5) evidence that the uses of land within the proposed revitalization district are in accord with the municipal corporation's or township's master zoning plan or map, and (6) a handling and processing fee to accompany the application, payable to the applicable municipal corporation or township, in an amount determined by that municipal corporation or township. (R.C. 4301.81(B).)

An application relating to an area located in a municipal corporation must be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within 30 days after receiving the application, must submit the application with the mayor's recommendation to the legislative authority of the municipal corporation. An

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<sup>3</sup> "Municipal corporation" means a municipal corporation with a population of less than 100,000.

<sup>4</sup> "Township" means a township with a population in its unincorporated area of less than 100,000.

application relating to an area located in the unincorporated area of a township must be addressed and submitted to the board of township trustees of the township in whose unincorporated area the area described in the application is located. The application is a public record for purposes of the Public Records Act upon its receipt by the mayor or board of township trustees.

Within 30 days after receiving the application and the mayor's recommendations relating to the application, the legislative authority of the municipal corporation, by notice published once a week for two consecutive weeks in at least one newspaper of general circulation in the municipal corporation, must notify the public that the application is on file in the office of the clerk of the municipal corporation and is available for inspection by the public during regular business hours. Within 30 days after receiving the application, the board of township trustees, by notice published once a week for two consecutive weeks in at least one newspaper of general circulation in the township, must notify the public that the application is on file in the office of the township fiscal officer and is available for inspection by the public during regular business hours. The notice must also state the date and time of any public hearing by the legislative authority or board of township trustees on the application.

Within 75 days after the date the application is filed with the mayor, the legislative authority of the municipal corporation by ordinance or resolution must approve or disapprove the application based on whether the proposed revitalization district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered must at a minimum include the municipal corporation in which the community is located. Any approval of an application must be by an affirmative majority vote of the legislative authority. Not more than one revitalization district can be designated within a municipal corporation.

Within 75 days after the date the application is filed with a board of township trustees, the board by resolution must approve or disapprove the application based on whether the proposed revitalization district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered must at a minimum include the township in which the community is located. Any approval of an application must be by an affirmative majority vote of the board of township trustees. Not more than one revitalization district can be designated within a township.

If the legislative authority or board of township trustees disapproves the application, the applicant may make changes in the application to secure its approval by the legislative authority or board of township trustees. Any area

approved by the legislative authority or board constitutes a revitalization district, and a local option election may be conducted in the district as a type of community facility under the Local Option Liquor Election Law. (R.C. 4301.81(C).)

All or part of an area designated as a revitalization district may lose the designation. The legislative authority of a municipal corporation in which a revitalization district is located, or the board of township trustees of the township in whose unincorporated area a revitalization district is located, after giving notice of its proposed action by publication once a week for two consecutive weeks in at least one newspaper of general circulation in the municipal corporation or township, may determine by ordinance or resolution, in the case of the legislative authority of a municipal corporation, or by resolution, in the case of a board of township trustees, that all or part of the area fails to meet the standards described above for designation of an area as a revitalization district. If the legislative authority or board so determines, the area designated in the ordinance or resolution no longer constitutes a revitalization district. (R.C. 4301.81(D).)

**Creation of the D-5m liquor permit to be issued at a center for the preservation of wild animals**

The act creates the D-5m liquor permit that may be issued to either the owner or the operator of a retail food establishment or a food service operation that is licensed by the state Department of Health, that operates as a restaurant, and that is located in, or is affiliated with, a center for the preservation of wild animals. The D-5m permit authorizes the sale of beer and intoxicating liquor at retail for consumption on the premises where sold and the sale of beer and intoxicating liquor in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 (beer sales) and D-2 (wine and mixed beverage sales) permits. In addition, a D-5m permit holder may exercise the same privileges as the holder of a D-5 (night club) permit. (R.C. 4303.181(M).)

"Center for the preservation of wild animals" means a conservation center located on not less than 5,000 acres of land that provides scientific, educational, and recreational resources to advance the conservation of animal populations and habitats (R.C. 4301.404(A)).

A D-5m permit cannot be transferred to another location. No quota restrictions can be placed on the number of D-5m permits that may be issued. The fee for the D-5m permit is \$2,344. (R.C. 4303.181(M).)

The act also makes several conforming changes to reflect the creation of the D-5m permit (R.C. 4301.355(B)(2), 4301.62(C)(1)(a), 4303.182(A) and (L), 4303.30, and 4399.12).

**Exemption of D permits issued at a center for the preservation of wild animals from the effects of the Local Option Liquor Election Law**

The act provides that the provisions of the Local Option Liquor Control Act do not affect or prohibit the sale of beer or intoxicating liquor at a center for the preservation of wild animals (see above) if the permit holder for the premises operates pursuant to the authority of a D liquor permit (R.C. 4301.404(B)). A D liquor permit allows the sale of beer, wine, mixed beverages, or spirituous liquor (depending on which type of D permit is issued to a premises) for consumption on the premises where sold. Thus, the act authorizes the holder of a D liquor permit issued to a center for the preservation of wild animals to sell beer or intoxicating liquor Monday through Saturday in an area where the sale is prohibited under the Local Option Liquor Election Law.

Continuing law prohibits the sale of intoxicating liquor after 2:30 a.m. on Sunday unless the permit holder has been issued a D-6 permit authorizing Sunday sales (R.C. 4301.22(C), not in the act). This permit generally is issued only in an area where Sunday liquor sales have been authorized in a local option election.

The act requires that a D-6 liquor permit be issued to the holder of any D permit that authorizes the sale of intoxicating liquor and that is issued for a center for the preservation of wild animals to allow the sale of intoxicating liquor under the permit at the premises between the hours of 1 p.m. and midnight on Sunday, whether or not such a sale has been authorized in an election that authorizes the sale of intoxicating liquor on Sunday for consumption on the premises where sold. The holder of a D permit issued for a center for the preservation of wild animals also may sell beer on Sunday whether or not the sale of intoxicating liquor has been authorized in a Sunday sales election. (R.C. 4301.404(C).) Continuing law prohibits the holder of a permit issued after April 15, 1982, from selling beer on Sunday unless the Sunday sale of intoxicating liquor has been authorized in a Sunday sales election (R.C. 4301.351(D), not in the act).

**Exemption for certain orchestral performances from the Open Container Law**

Continuing law, subject to certain exceptions, prohibits a person from possessing an opened container of beer or intoxicating liquor in any public place (R.C. 4301.62(B)(3)). The major exception to this prohibition is that a person may possess an open container of beer or intoxicating liquor that has been lawfully purchased for consumption on the premises if bought from the holder of a permit that authorizes sales for on-premises consumption (R.C. 4301.62(C)(1)(a)).

The act adds another exception by allowing a person to have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance if the

person with supervision and control over the performance grants permission for the possession and consumption in certain predesignated areas of that outdoor location (R.C. 4301.62(C)(4)). An "orchestral performance" is a concert comprised of a group of not fewer than 40 musicians playing various musical instruments (R.C. 4301.62(C)(3)(b)(i)).

**Expansion of the municipal corporations in which a D-5j permit may be issued**

Continuing law creates the D-5j liquor permit that may be issued to the owner or operator of a retail food establishment or a food service operation licensed by the state Department of Health. The D-5j permit authorizes the sale of beer and intoxicating liquor at retail for consumption on the premises where sold and the sale of beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by holders of D-1 (beer sales) and D-2 (wine sales) permits. The D-5j permit may be issued only (1) within a community entertainment district that is designated by a municipal corporation or township under procedures specified in the Liquor Control Act and (2) within a municipal corporation or township that meets certain qualifications. (R.C. 4303.181(J)(1) and (2).)

The act adds another type of municipal corporation in which a D-5j permit may be issued. The permit may be issued in an entertainment district located in a municipal corporation with a population of at least 5,000 if not less than \$100 million will be invested in development and construction in the community entertainment district's area located in the municipal corporation (R.C. 4303.181(J)(2)(e)).

**Changes relating to the B-2a and S permits**

Prior law authorized the B-2a permit to be issued to a person that (1) manufactured wine if the wine manufacturer was entitled to a tax credit under a specified federal rule and produced less than 150,000 gallons of wine per year or (2) was the brand owner or United States importer of wine or was the designated agent of a brand owner or importer of wine for all wine sold in Ohio for that owner or importer. A B-2a permit holder may sell only wine the permit holder has manufactured to a retail permit holder and may be located outside Ohio. The act increases from 150,000 gallons to 250,000 gallons of wine the amount that a person can manufacture and qualify to be issued a B-2a permit. (R.C. 4303.071(A).)

Prior law authorized an S permit to be issued to a person that (1) manufactured wine if the wine manufacturer was entitled to a tax credit under a specified federal rule and produced less than 150,000 gallons of wine per year or (2) was the brand owner or United States importer of wine or was the designated

agent of a brand owner or importer of wine for all wine sold in Ohio for that owner or importer. An S permit holder may sell wine to a personal consumer by receiving and filling orders that the personal consumer submits to the permit holder, may sell only wine the permit holder has manufactured, and may be located outside Ohio. The act increases from 150,000 gallons to 250,000 gallons of wine the amount that a person can manufacture and qualify to be issued an S permit. (R.C. 4303.232(A).)

Continuing law requires that all money received from liquor permit fees be paid to the credit of the Undivided Liquor Permit Fund. The act exempts from this requirement, B-2a and S permit fees received from B-2a and S permit holders who do not also hold A-2 (wine manufacturer) permits. (R.C. 4301.12.) The act requires that all fees the Division of Liquor Control collects from the issuance or renewal of B-2a and S permits, and paid by B-2a and S permit holders who do not also hold A-2 permits, be deposited to the credit of the Liquor Control Fund. Once during each fiscal year, an amount equal to 50% of these fees collected must be paid from the Liquor Control Fund to the General Revenue Fund. (R.C. 4301.30.)

Continuing law requires the Division of Liquor Control to collect a \$50 product registration fee for each new beer or intoxicating liquor product sold in Ohio. The act specifies that this product registration fee applies to products sold in Ohio by B-2a and S permit holders. (R.C. 4301.10(A)(8)(b).)

Continuing law also requires the Division of Liquor Control to collect an annual \$300 supplier registration fee from each manufacturer or supplier that produces and ships into Ohio, or that ships into Ohio, intoxicating liquor or beer, in addition to an initial \$100 application fee. Under the act, a manufacturer that produces and ships wine into Ohio and holds only an S permit is exempt from the supplier registration fee. A manufacturer that produces and ships wine into Ohio and holds a B-2a permit must pay an annual \$76 supplier registration fee. A manufacturer that produces and ships wine into Ohio and holds neither a B-2a or S permit, but that produces less than 250,000 gallons of wine per year and that is entitled to a tax credit under a specific federal rule, must pay an annual \$76 supplier registration fee. A B-2a or S permit holder that does not sell its wine to wholesale wine distributors in Ohio is not required to submit to the Division territory designation forms. (R.C. 4301.10(A)(8)(c).)

The act provides that all B-2a and S permit holders are subject to all of the following:

- Audit by the Division of Liquor Control or the Department of Taxation.

- Jurisdiction of the Liquor Control Commission, the Division of Liquor Control, the Department of Taxation, the Department of Public Safety, and the courts of Ohio; and
- Ohio statutes and rules. (R.C. 4303.234.)

The act further specifies that an S permit holder must comply with the Liquor Control Act and any rules adopted by the Liquor Control Commission (R.C. 4303.232(E)).

Continuing law requires B-2a permit holders to collect and pay all applicable taxes relating to the delivery of wine to a retailer, and S permit holders to collect and pay all applicable taxes relating to the delivery of wine to a personal consumer, including specified taxes on wine and state sales and use taxes (R.C. 4303.071(B) and 4303.232(B)). The act retains the requirement that B-2a and S permit holders collect and pay the state sales and use tax, but requires that they pay only the tax on wine that is levied by a county to pay for a sports facility and the two cents per gallon tax on wine that is levied to encourage Ohio grape industries--and not the general state tax on wine (R.C. 4303.071(B) and 4303.232(B)). The act declares that these changes relating to the taxes paid by B-2a and S permit holders are essential to implementation of a tax levy, are therefore exempt from the referendum under the Ohio Constitution, and take effect on July 1, 2008 (Section 4).

The act also makes several conforming changes to recognize the existence of the B-2a and S permit (R.C. 4301.432, 4301.47, 4301.58, 4303.27, 4303.271(A) and (D), and 4303.33(C)(1) and (2)).

#### **Sales authority of and tax payments by an A-2 permit holder**

An A-2 permit may be issued to a manufacturer (1) to manufacture wine from grapes and other fruits, (2) to import and purchase wine in bond for blending purposes, (3) to manufacture, purchase, and import brandy for fortifying purposes, and (4) to sell these products either in glass or container for consumption on the premises where manufactured, in sealed containers for consumption off the premises where manufactured, and to wholesale permit holders (R.C. 4303.03(A)).

The act prohibits an A-2 permit holder from selling directly to a retailer. In order to make sales to a retailer, the A-2 permit holder must obtain a B-2a permit or make the sale directly to a B-2a permit holder or a B-5 (wine wholesaler) permit holder for subsequent resale to a retailer. The act further prohibits an A-2 permit holder from selling directly to a consumer unless the product is sold on the premises in the manner described in the preceding paragraph. In order to make

sales to a consumer off the premises where the wine is manufactured, the manufacturer must obtain an S permit.

The act provides that the Liquor Control Act does not prohibit an A-2 permit holder from also holding a B-2 or S permit. (R.C. 4303.03(B).)

Under continuing law, an A-2 permit holder whose total production of wine, wherever produced, does not exceed 500,000 gallons in a calendar year and is otherwise taxable, is allowed an exemption from the wine taxes levied in the following calendar year on wine produced and sold or distributed in Ohio. The exemption may be claimed monthly, and at the time the report for December is due for a calendar year during which the permit holder is eligible for an exemption, the permit holder may claim a refund of the tax paid during the calendar year. The act requires the exemption to be claimed against current taxes, and specifies that the exemption must have been claimed for the taxes to be refunded. Alternatively, at the time of making the December report, the permit holder must remit any additional taxes due because the permit holder did not qualify for the exemption. (R.C. 4303.333(A).)

Continuing law also requires various manufacturers and wholesalers of wine and mixed beverages to file monthly reports with the Tax Commissioner on amounts produced and sold in order to calculate the taxes due. Under the act, if the Tax Commissioner determines that the quantity reported does not warrant monthly reporting, the Tax Commissioner may authorize the filing of returns and payment of the required tax for a period longer than one month. (R.C. 4303.33(C).)

**Clarification of the amount of wine that may be sold to a family household each year**

Prior law prohibited any family household from purchasing more than 24 cases of nine-liter bottles of wine in one year. The act instead prohibits any family household from purchasing more than 24 cases of twelve 750-milliliter bottles of wine in one year. (R.C. 4303.233.)

**Department of Taxation information about beer and liquor taxes**

Continuing law prohibits, subject to various exceptions, an agent of the Department of Taxation from divulging information the agent acquired as to the transactions, property, or business of any person while acting or claiming to act under the Department's orders (R.C. 5703.21(A)). The act allows the disclosure to the appropriate state agency of information in the Department's possession that is necessary to verify a liquor permit holder's gallonage or noncompliance with taxes levied on beer or intoxicating liquor, although the information must not be

disclosed publicly by the agency receiving the information except for purposes of enforcement, to deny renewal of a liquor permit, or to report the information to the Alcohol and Tobacco Tax and Trade Bureau in the United States Department of the Treasury (R.C. 4301.441 and 5703.21(C)(11)).

**Deposit of money from the retail sale of spirituous liquor**

Continuing law requires that all money received from the sale of spirituous liquor by state agency stores, other than taxes, be paid to the Division of Liquor Control. The act authorizes the Division to allow or require a state liquor agency to establish and maintain bank accounts, at the Division's discretion either under the name of the state or the business account of the state liquor agency, for the deposit of money received from the sale of spirituous liquor. The money in the state liquor agency's bank accounts must be transferred to the Division at intervals the Division determines. (R.C. 4301.16(A)(1) and (2).)

**Sale of beer and liquor at a private residence without a permit**

The act provides that the Liquor Control Act does not prevent the sale of beer or intoxicating liquor without a liquor permit at a private residence, not more than five times per year at a residence address, at an event that has the following characteristics: it is for a charitable, benevolent, or political purpose, but no proceeds are for the profit or gain of any individual; it has in attendance not more than 50 people; it is for a period not to exceed 12 hours; the sale of beer and intoxicating liquor at the event must not take place between 2:30 a.m. and 5:30 a.m.; no person under 21 years of age can purchase or consume beer or intoxicating liquor at the event and no beer or intoxicating liquor can be sold to any person under 21 years of age; and no person at the event can furnish or sell beer or intoxicating liquor to an intoxicated person. (R.C. 4301.20(N).)

**Elimination of requirement that A-4 permit holder submit certain information and items to the Division of Liquor Control**

The A-4 liquor permit is issued to a manufacturer of prepared highballs, cocktails, cordials, and other mixed drinks containing not less than 4% of alcohol and not more than 21% of alcohol by volume. Prior law required (1) that the formulas and beverages manufactured by an A-4 permit holder be submitted to the Division of Liquor Control for its analysis and approval before the beverages may be sold to or distributed in Ohio by holders of wholesale and retail permits and (2) that all labels and advertising matter used by A-4 permit holders be approved by the Division before they may be used in Ohio. The act eliminates these requirements. (R.C. 4303.05.)

### **Elimination of independent audits required of D-5i permit holders**

Continuing law authorizes the D-5i permit to be issued to restaurants having certain characteristics and allows the holder of the permit to sell beer and any intoxicating liquor at retail for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by holders of D-1 (beer sales) and D-2 (wine and mixed beverage sales) permits.

One of the required characteristics of a restaurant to which a D-5i permit is issued is that its receipts from beer and liquor sales, excluding wine sales, do not exceed 25% of its total gross receipts. Prior law required a D-5i permit holder to cause an independent audit to be performed at the end of one full year of operation following issuance of the permit to verify this characteristic. The results of the audit had to be transmitted to the Division of Liquor Control. If the Division determined that the receipts of the permit holder from beer and liquor sales, excluding wine sales, exceeded 25% of the total gross receipts, the Division had to suspend the permit, although it could allow the permit holder to pay a forfeiture in lieu of the suspension as authorized by the Liquor Control Act. The act eliminates this audit and suspension requirement. (R.C. 4303.181(I).)

### **Elimination of independent audits required of D-8 permit holders**

Continuing law authorizes the D-8 permit to be issued to a retail store where a permit holder has already been issued a C permit allowing the sale of beer, wine, or mixed beverages for consumption off the premises where sold. The store must have at least 5,500 square feet of floor area, must generate more than 60% of its sales in general merchandise items and food for consumption off the premises where sold, and wine must constitute at least 60% of the store's inventory. (R.C. 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 Liquor Control Commission rule (R.C. 4303.184(C)).

Prior law required a D-8 permit holder to cause an independent audit to be performed at the end of the first full year of operation following issuance of the permit, and at the end of each second year thereafter, to verify the requirements described in the preceding paragraph. The permit holder had to transmit the results of the audit to the Division of Liquor Control. If the results of the audit indicated noncompliance with the applicable requirements, the Division could not renew the permit. The act eliminates this audit and non-renewal requirement. (R.C. 4303.184(G).)

**Elimination of residency requirement for applicants for liquor permits**

Prior law prohibited any permit, other than an H (common carrier) permit, from being issued to a firm or partnership unless all members of the firm or partnership were United States citizens and a majority of them had resided in Ohio for one year prior to application for the permit. Similarly, former law prohibited any permit, other than an H permit, from being issued to an individual who was not a United States citizen who had resided in Ohio for one year prior to application for the permit. The act eliminates the one-year residency requirement in both these situations. (R.C. 4303.29(A).)

**Restrictions on the solicitation of orders for the sale of beer or intoxicating liquor**

Continuing law authorizes the Superintendent of Liquor Control to adopt rules requiring a person acting as an agent, solicitor, or salesperson for a manufacturer, supplier, broker, or wholesale distributor who solicits permit holders authorized to deal in beer or intoxicating liquor to be registered with the Division of Liquor Control. The act prohibits any manufacturer, supplier, wholesale distributor, broker, or retailer of beer or intoxicating liquor or other person from employing, retaining, or otherwise utilizing any person in Ohio to act as an employee, agent, solicitor, or salesperson, or from acting in any other representative capacity to sell, solicit, take orders, or receive offers to purchase or expressions of interest to purchase beer or intoxicating liquor from any person, at any location other than a permit premises, except as specifically authorized by the Liquor Control Act or rules adopted under that Act. The act further forbids any function, event, or party from taking place at any location other than a liquor permit premises where any person acts in any manner to sell, solicit, take orders, or receive offers to purchase or expressions of intent to purchase beer or intoxicating liquor to or from any person, except as specifically authorized by the Liquor Control Act or rules adopted under that Act. (R.C. 4303.25.)

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**HISTORY**

ACTION	DATE
Introduced	04-24-07
Reported, S. Agriculture	06-20-07
Passed Senate (32-0)	06-27-07
Reported, H. State Gov't & Elections	04-14-08
Passed House (94-3)	05-21-08
Senate Concurred in House amendments (33-0)	05-22-08
08-SB150-127.doc/ejs	

