# *Fiscal Note & Local Impact Statement*

*127 th General Assembly of Ohio*

Ohio Legislative Service Commission
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BILL: **Sub. S.B. 102** DATE: **June 15, 2007**

STATUS: **As Reported by House State Government** SPONSOR: **Sen. Schuler**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Authorizes the F-8 liquor permit to be issued to certain nonprofit organizations to allow the sale of beer and intoxicating liquor at specific events that occur on public space that the organization manages, changes the population quota for state agency stores, creates the D-5l permit, and declares an emergency**

## *State Fiscal Highlights*

| STATE FUND | FY 2008 | FY 2009 | FUTURE YEARS |
|---|---|---|---|
| **General Revenue Fund** | | | |
| Revenues | Potential minimal gain from issuance of F-8 and D-5l liquor permits | Potential minimal gain from the issuance of F-8 and D-5l liquor permits | Potential minimal gain from the issuance of F-8 and D-5l liquor permits |
| Expenditures | - 0 - | - 0 - | - 0 - |
| **Undivided Liquor Permit Fund (Fund 066) – Commerce** | | | |
| Revenues | Potential minimal gain from the issuance of F-8 and D-5l liquor permits | Potential minimal gain from the issuance of F-8 and D-5l liquor permits | Potential minimal gain from the issuance of F-8 and D-5l liquor permits |
| Expenditures | - 0 - | - 0 - | - 0 - |
| **Statewide Treatment and Prevention Fund (Fund 475) – Alcohol and Drug Addiction Services** | | | |
| Revenues | Potential minimal gain from the issuance of F-8 and D-5l liquor permits | Potential minimal gain from the issuance of F-8 and D-5l liquor permits | Potential minimal gain from the issuance of F-8 and D-5l liquor permits |
| Expenditures | - 0 - | - 0 - | - 0 - |
| **Victims of Crime/Reparations Fund (Fund 402)** | | | |
| Revenues | Negligible gain from state court costs | Negligible gain from state court costs | Negligible gain from state court costs |
| Expenditures | - 0 - | - 0 - | - 0 - |
| **Liquor Control Fund (Fund 043) – Department of Commerce** | | | |
| Revenues | Potential negligible gain in spirituous liquor sales | Potential negligible gain in spirituous liquor sales | Potential negligible gain in spirituous liquor sales |
| Expenditures | Potential minimal increase for spirituous liquor merchandise | Potential minimal increase for spirituous liquor merchandise | Potential minimal increase for spirituous liquor merchandise |

Note: The state fiscal year is July 1 through June 30. For example, FY 2005 is July 1, 2004 – June 30, 2005.

- ***New Liquor Permits.*** This bill creates the F-8 liquor permit for certain nonprofit organizations to allow beer and intoxicating liquor to be sold at specific events on public spaces and ancillary streets that the organization manages. The fee for this permit is $1,700 per year. The bill also creates the D-5l liquor permit for retail food establishments or food service operations that can only be issued in municipalities with a population of less than 100,000 and only within the geographic boundaries of designated Heritage Ohio Main Street Community areas. The fee for this permit is $2,344 per year. Liquor permit fees are deposited into the Undivided Liquor Permit Fund (Fund 066) and then distributed to the GRF, the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) for treatment and prevention programming, and local governments. Expenses for the Department of Commerce's Division of Liquor Control to develop application forms and process applications are likely to be negligible at most.

- ***State Liquor Store Quota.*** The bill would change the population quota to allow additional liquor agencies to be established for each 20,000 of population of that county or major fraction thereof rather than for each 25,000 of population, as in current law. While only Cuyahoga County is presently nearing their liquor store quota, if additional stores were established, it would have several possible impacts. The Division of Liquor Control may have to purchase a minimal amount of additional spirituous liquor merchandise out of funds in the Liquor Control Fund (Fund 043). There would likely be no measurable increase in spirituous liquor sales as a result of this change.

- ***New Criminal Penalty.*** As the bill creates a criminal penalty associated with selling beer or intoxicating liquor beyond the time specified by the permit, there is the possibility that the state may gain a negligible amount of revenue to the GRF and the Victims of Crime/Reparations Fund (Fund 402) from state court costs.

## *Local Fiscal Highlights*

| LOCAL GOVERNMENT | FY 2007 | FY 2008 | FUTURE YEARS |
|---|---|---|---|
| **Municipalities and Townships** | | | |
| Revenues | Potential minimal gain from the issuance of F-8 liquor permits and court cost and fine revenue in Hamilton County only; potential minimal gain from the issuance of D-5l liquor permits statewide | Potential minimal gain from the issuance of F-8 liquor permits and court cost and fine revenue in Hamilton County only; potential minimal gain from the issuance of D-5l liquor permits statewide | Potential minimal gain from the issuance of F-8 liquor permits and court cost and fine revenue in Hamilton County only; potential minimal gain from the issuance of D-5l liquor permits statewide |
| Expenditures | Potential minimal increase in adjudication costs in Hamilton County | Potential minimal increase in adjudication costs in Hamilton County | Potential minimal increase in adjudication costs in Hamilton County |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- ***Liquor Permit Fee Revenue.*** Municipalities and townships receive a portion of liquor permit fee revenue. The issuance of a new F-8 (in Hamilton County only) and D-5l liquor permits would result in a minimal gain in liquor permit revenue for the local governments where the liquor permits are issued.

- ***New Penalty.*** The bill prohibits any F-8 permit holder from selling beer or intoxicating liquor beyond the hour of sale allowed by the permit. Violators of this prohibition are guilty of a misdemeanor of the fourth degree, which carries a maximum sentence of 30 days and a maximum fine of $250. Therefore, while local adjudication costs may minimally increase for Hamilton County and its municipalities, these entities may also gain court cost and fine revenue to offset any increased costs.

# *Detailed Fiscal Analysis*

***New liquor permits***

***Nonprofit organizations – F-8 permit***

This bill authorizes the Division of Liquor Control to issue an F-8 liquor permit, which is effective for a maximum of nine months, to a nonprofit organization that manages, for the benefit of the public and by contract with a political subdivision of Ohio, publicly owned property to sell beer or intoxicating liquor by the individual drink at specific events conducted on the publicly owned property and ancillary streets if and only at the times the sale of beer and intoxicating liquor on the premises is otherwise permitted by law. Currently, Ohio law requires each organization to acquire a permit for each event. The premises on which an F-8 permit will be used must clearly be defined and sufficiently restricted to allow proper supervision of the permit's use by state and local law enforcement officers. The holder of the permit is also required to notify the Division of Liquor Control, the Department of Public Safety, and the chief, sheriff, or other principal peace officer of the local law enforcement agencies in advance about specific events where beer or intoxicating liquor will be sold. An F-8 permit may only be issued if the publicly owned property is located in a county that has a population of between 750,000 and 900,000 on the effective date of the bill, effectively restricting such permits to Hamilton County.

***Heritage Ohio Main Street Programs – D-5l permit***

The bill also authorizes the issuance of D-5l liquor permits to retail food establishments or food service operations to sell beer and intoxicating liquor at retail. This permit may only be issued in municipal corporations with populations of less than 100,000 and only within the geographic boundaries of a designated "Heritage Ohio Main Street Community area." The bill limits to the number of D-5l permits to one for each 10,000 people in the municipality. Furthermore, no D-5l permit may be issued and renewed longer than seven years and after 25 years have passed since the effective date of this bill.

The Heritage Ohio Main Street Program works with communities to revitalize historic or traditional commercial areas. There are approximately 36 communities participating in the program, all but four of which would qualify for the permit under the bill's population requirement. While it is uncertain how many of these communities would opt to obtain the permit, the number of new permits is likely to be minimal.

***Liquor permit fee revenue and expenses***

The fees for the F-8 and D-5l liquor permits are $1,700 and $2,344 per year, respectively, in addition to a $100 processing fee, which covers the Division of Liquor Control's expenses in fingerprinting and making background checks for permanent license applications. Liquor permit fees are deposited into the Undivided Liquor Permit Fund (Fund 066) and then distributed to the GRF (45%), the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) for treatment and prevention programming (20%), and the local governments where the liquor permits are issued (35%). Expenses for the Department of Commerce's Division of Liquor Control to develop application forms and process applications are likely to be negligible at most.

***State agency store quota***

Under current law, up to five state liquor stores or agencies can be established in each county with an additional store allowed to be established in any county for each *25,000 of population of that county* or major fraction thereof in excess of the first 40,000 according to the latest census or population estimates certified by the Department of Development between censuses. The bill would change the population quota to an additional state liquor store for each *20,000 of population of that county* or major fraction thereof.

The Division of Liquor Control reports that there are 435 liquor agencies currently. The most populous counties in the state, such as Cuyahoga, Franklin, Hamilton, and Montgomery counties, would experience the largest increases in store quotas. However, according to the Division of Liquor Control, only Cuyahoga County is nearing its store quota limitation in the near term. There may be a minimal increase in spirituous liquor purchased to stock the new stores. However, this change is not likely to increase spirituous liquor sales in a measurable way beyond the current growth rate in spirituous liquor sales, which has been between 6% and 9% in the past several years, since this change is not expected to increase demand.

***New prohibition***

Sales under the F-8 permit are confined to the same hours permitted under a D-3 liquor permit, which allows sales until one a.m. The bill prohibits any F-8 liquor permit holder from selling beer or intoxicating liquor beyond the hours of sale allowed by the permit. Violators of this prohibition are guilty of a misdemeanor of the fourth degree, which carries a maximum sentence of 30 days and a maximum fine of $250. As the bill creates a criminal penalty associated with violating the bill's prohibition against selling beer or intoxicating liquor beyond the time specified by the permit, there is the possibility that the state may gain a negligible amount of revenue to the GRF and the Victims of Crime/Reparations Fund (Fund 402) from state court costs. Additionally, criminal justice adjudication costs for Hamilton County and its municipalities may minimally increase from any criminal charges for violations, but these entities would also gain court cost and fine revenue to offset the increased costs that may arise from violations of the prohibition.

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