



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 48 of the 130th G.A.

Date: April 17, 2013

Status: As Enacted

Sponsor: Sen. Balderson

Local Impact Statement Procedure Required: No

Contents: Creates the A-1c liquor permit for beer manufacturers that produce beer below specified quantities and makes other changes to the Liquor Control Law

State Fiscal Highlights

- The bill creates the A-1c liquor permit (\$1,000 annual fee) for beer manufacturers that produce a total of less than 31 million gallons of beer per year. This permit would likely replace the A-1 permit (\$3,906 annual fee) for all but approximately one to three of the 88 A-1 permits currently issued in the state. Overall, the annual revenue loss to the Undivided Liquor Permit Fund (Fund 7066) could be approximately \$250,000 annually beginning in FY 2014.
- Fund 7066 revenues are subsequently distributed to the State Liquor Regulatory Fund (Fund 5LP0) used by the Division of Liquor Control (45%), the local taxing district where the permit is issued (35%), and the Statewide Treatment and Prevention Fund (Fund 4750) used by the Department of Alcohol and Drug Addiction Services (20%).
- The bill allows permits that have been transferred through the Economic Development Transfer (TRES) process by the Division of Liquor Control to be subsequently transferred to another permit holder or location within the same political subdivision without the requirement that the new permit-holder or new location fulfill the economic development project criteria under which the transfer was originally approved. Transfer fees are \$100. These provisions may result in a slight increase in revenue to Fund 7066.

Local Fiscal Highlights

- Since 35% of the permit fee is distributed to the local taxing district where the permit is issued, any decrease in revenue to Fund 7066 will proportionally affect permit fee distributions to the local taxing district. Decreased revenue to local taxing districts is estimated to be up to approximately \$87,500 (35% of \$250,000) in aggregate per year as a result of these provisions.

- The liquor permit transfers resulting from the bill under the TREX transfer process would stay within the same city or township; consequently, the changes to the TREX process are not likely to have any direct fiscal effect on political subdivisions.
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Detailed Fiscal Analysis

Overview

The bill makes various changes to the Liquor Control Law, including the creation of the A-1c liquor permit, adjustments to the criteria applying to the A-1 permit, modifications to permits that have been transferred through the Economic Development Transfer (TREX) process, and other changes. Overall, there may be a loss of up to approximately \$250,000 in annual permit revenue deposited into the Undivided Liquor Permit Fund (Fund 7066), since the new A-1c permit type has a lower annual fee than the existing A-1 permit. Because a portion of this permit revenue is subsequently distributed to other state funds and local taxing districts where the permit is issued, there will be a proportional loss in revenue available for these uses under the bill. The fiscal effects are described in more detail below.

Beer manufacturer permits

The A-1 permit is the beer manufacturer permit under existing law. The bill creates the A-1c liquor permit for beer manufacturers that produce a total of less than 31 million gallons of beer per year, wherever produced. The bill prohibits A-1 permit holders from selling beer products to retailers licensed by the Division of Liquor Control, thereby only allowing A-1 permit holders to sell to wholesalers, while allowing A-1c permit holders to sell at retail and wholesale. All of the other requirements and regulations of A-1 permits in existing law apply to A-1c permits under the bill.

Based on research on annual beer production, all but approximately one to three of the current 88 A-1 permit holders are likely to qualify and apply for the A-1c permit created by the bill. If this occurs, then there is likely to be a loss in permit fees collected by the Division of Liquor Control within the Department of Commerce, since the fee for the A-1c permit is \$1,000 compared to \$3,906 for the existing A-1 permit. Consequently, the loss in permit revenue deposited into the Undivided Liquor Permit Fund (Fund 7066) could be approximately \$250,000 (86 permits x \$2,906) annually beginning in FY 2014.

Permit fees are subsequently distributed to the State Liquor Regulatory Fund (Fund 5LP0) used by the Division of Liquor Control for operating expenses (45%), the local taxing district where the permit is issued (35%), and the Statewide Treatment and Prevention Fund (Fund 4750) used by the Department of Alcohol and Drug Addiction Services (20%). As a result, there will be a proportional reduction in receipts used for these purposes. Under the scenario above, the revenue loss to all local taxing districts as a result of this new permit type could be approximately \$87,500 (35% of \$250,000)

annually. The cities with the highest number of active A-1 permits are Columbus (13 A-1 permits issued), Cincinnati (11), and Cleveland (6).

Permits transferred through the TREX process

The bill allows permits that have been transferred through the Economic Development Transfer (TRES) process by the Division of Liquor Control within the Department of Commerce to be subsequently transferred to another permit holder or location within the same municipal corporation or township without the requirement that the new permit holder or new location fulfill the economic development project criteria under which the transfer was originally approved. Overall, the bill could result in a slight increase in liquor permit transfers. Any increased revenue would be deposited into Fund 7066. Because the liquor permits that may be transferred as a result of the bill would stay within the same city or township, the only fiscal effect to political subdivisions is a possible gain in revenue for local law enforcement from distribution of additional fees from transfer applications.

TRES permit transfers occur when a business desires a liquor permit in a municipal corporation or township where the liquor permit quota has been reached. The Division of Liquor Control may transfer certain permanent liquor permit types, including C-1, C-2, D-1, D-2, D-3, or D-5 permits, from an outside municipal corporation or township to a business in the political subdivision if the business qualifies as an economic development project. The Superintendent of Liquor Control determines whether the applicant's business is designated as an economic development project using various criteria, such as the cost of the project, the estimated number of jobs created, earnings, tax revenues, and other project outcomes. However, before the Division may transfer the permit, the legislative authority where the permit is to be transferred must approve the permit application. There are approximately 1,000 TRES-transferred liquor permits currently active in the state.

Other changes to the Liquor Control Law

The bill makes various other changes to the Liquor Control Law. One such change relates to A-1a permits, which currently allow A-1 and A-2 permit holders to sell beer and wine at retail where the manufacturing permit is located or at a site separated only by public land (such as a street or park). The A-2 permit is the wine manufacturer permit. The bill allows A-1c permit holders to also apply for the A-1a permit, and in addition allows the A-1a permit to be issued to applicants at a separate permit site if it is one-half mile or less away from the manufacturing location. This change could result in additional A-1a permit applications and permits issued; however, LSC cannot currently estimate the gain in permit revenue that would accrue to Fund 7066 as a result. According to the Division of Liquor Control's web site, there are 88 A-1 permits and 179 A-2 permits issued presently, with 87 active A-1a permits.

Other changes in the bill include (1) modifications to the franchising process between beer manufacturers and distributors, and (2) changes to D permits at golf courses and airports that exempt those permit holders from population quota restriction compliance. These changes appear to have minimal to no fiscal effect on the state or political subdivisions.

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