
DEPARTMENT OF COMMERCE

I. Division of Securities

- Creates the Ohio Investor Recovery Fund for victims of securities fraud that have not received restitution from the person that committed the violation.
- Allows a dealer or investment adviser to place a hold on a transaction when the dealer, or investment adviser, or an employee believes the account holder is age 60 or older or eligible for adult protective services and may be the victim of financial exploitation.
- Pushes back, from January 1, 2022, to February 11, 2022, the transition date of regulation of limited liability companies from the existing Limited Liability Company Act (R.C. Chapter 1705) to the new Ohio Revised Limited Liability Company Act (R.C. Chapter 1706).

II. Division of Industrial Compliance

Sale of second-hand bedding and toys

- Requires any person or entity wishing to sell second-hand bedding or used toys to register with the Superintendent of Industrial Compliance within the Department of Commerce.

Plumbing inspector certification

- Removes certification of plumbing inspectors from the Division of Industrial Compliance's responsibility and authority but retains the Board of Building Standard's plumbing inspector certification responsibility and authority.
- Requires a board of health to employ a Board of Building Standards certified plumbing inspector, as opposed to a Division of Industrial Compliance certified plumbing inspector as under prior law, or to contract with another health district or building department for plumbing inspections in order for a prohibition on Division inspections in the board's district to apply.
- Adds a requirement that a board of health notify the Division of Industrial Compliance of the board's intent to inspect plumbing in its district before the continuing prohibition against duplicative Division plumbing authority will apply.
- Eliminates prohibitions on boards of health that do not employ certified plumbing inspectors from inspecting plumbing, collecting fees for inspecting plumbing, and contracting with other boards of health to inspect plumbing on the other board's behalf.

Building inspection fees

- Transfers authority to establish fees for inspections carried out by the Division of Industrial Compliance from the Board of Building Standards to the Superintendent of Industrial Compliance.

Historical boiler license

- Re-establishes the Historical Boiler Licensing Board and the licensing requirements for operators of historical boilers as they existed prior to the April 12, 2021, effective date of H.B. 442 of the 133rd General Assembly.
- Transfers the duties that were transferred by H.B. 442 from the Historical Boiler Licensing Board to the Division of Industrial Compliance in the Department of Commerce back to the re-established Board.
- Requires the Board to issue a license to a person who held an active license to operate historical boilers in public when the requirement for a license ended pursuant to H.B. 442, April 12, 2021.

Manufactured homes

- Makes several technical changes to replace references to the former Manufactured Homes Commission with references to the Division of Industrial Compliance.

III. Division of Real Estate and Professional Licensing

- Authorizes the Division of Real Estate and Professional Licensing to adopt rules with respect to the regulation of manufactured home dealers, brokers, and salespersons.
- Sets a 30-day deadline for a licensed real estate broker and salesperson to notify the Superintendent of Real Estate and Professional Licensing of a change in personal residence address.
- Requires each licensee to maintain a valid email address on file with the Division and notify the Superintendent of any changes in email address within 30 days of the change.
- Expands the Superintendent's authority to recommend ancillary trustees for brokers.
- Reduces the portion of triennial real estate broker's and salesperson's license fees to be credited to the Real Estate Education and Research Fund from \$3 to \$1.50 per fee.

IV. State Fire Marshal

- Specifies that when authorized fire investigators are investigating a fire that has caused more than \$5,000 of property damage, to determine whether or not arson was involved, they must do so to the extent practicable and in a manner consistent with accepted standards of investigation.
- Permits the OBM Director, after certification of the Director of Commerce, to transfer funds from the State Fire Marshal's Fund to the Small Government Fire Department Services Revolving Loan Fund, if additional resources are needed.
- Requires a self-service gas station to comply with the most recent version of National Fire Protection Association Standard Number 30A, as incorporated into the State Fire Code, instead of the outdated version 30A-1990.

V. Division of Liquor Control

Direct beer and wine sales

S-1 liquor permit eligibility changes

- Renames the S liquor permit the S-1 permit.
- Revises the eligibility for the S-1 permit, including:
 - Eliminating from eligibility a brand owner or U.S. importer of beer or wine and its designated agent; and
 - Expanding eligibility to a person (inside or outside Ohio) that manufactures beer.

S-2 liquor permit

- Creates the S-2 liquor permit to be issued to a person (inside or outside Ohio) that manufactures 250,000 gallons or more of wine annually.
- Authorizes an S-2 permit holder to sell and ship its wine directly to personal consumers.
- Establishes similar provisions as the S-1 permit regarding payment of wine taxes, shipment of wine, and keeping sales records.
- Establishes an initial permit fee of \$250 and renewal fee of \$100.

Taxes

- Requires S-1 and S-2 permit holders to pay the 30¢ per-gallon tax, and the additional 2¢ per-gallon tax, on wine used to support the Ohio Grape Industries Fund, but exempts permit holders that manufacture 500,000 gallons of wine or less per year from the 30¢ per-gallon tax.
- Replaces the tax credit for A-1c liquor permit holders (small breweries) for the state beer tax, which applies to the first 9.3 million gallons of annual production, with an exemption for A-1c permit holders that produce up to 9.3 million gallons, and applies the same exemption to S-1 permit holders.

Fulfillment warehouse

- Authorizes a fulfillment warehouse to send an S-2 permit holder's wine to a personal consumer under specified conditions, including when the warehouse is located outside Ohio and has entered into a written agreement with an S-2 permit holder to fulfill orders on behalf of the permit holder.

B-2a liquor permit changes

- Revises the eligibility for the B-2a liquor permit, including eliminating from B-2a permit eligibility the brand owner or U.S. importer of wine and its designated agent.
- Prohibits a B-2a permit holder from selling wine to a retail permit holder that has been assigned an Ohio distribution territory.

Illegal shipment of beer or wine

- Generally prohibits a person from knowingly sending or transporting a shipment of wine to a personal consumer unless the person holds an S-1 or S-2 permit or is a fulfillment warehouse.
- Generally prohibits a person from knowingly sending or transporting a shipment of beer to a personal consumer without an S-1 permit.
- Specifies that a violator may be fined between \$500 and \$5,000, depending on the number of violations.

Retail permit holder prohibition

- Prohibits a person that is not a beer or wine manufacturer, including the holder of any retail permit inside or outside Ohio, from obtaining or attempting to obtain a B-2a, S-1, or S-2 permit.

Repackaging of alcohol

- Authorizes the repackaging of beer, wine, or mixed beverages, which is the rebundling of containers of those products into new configurations.
- Authorizes the Division of Liquor Control to issue an R permit to specified entities to conduct repackaging.
- Establishes a \$750 permit fee for each R permit location.

Serving containers in DORAs

- Requires qualified liquor permit holders in designated outdoor refreshment areas (DORAs) to serve beer or intoxicating liquor in plastic bottles or other “nonglass” containers, rather than in plastic bottles or other plastic containers as in former law.

Other liquor provisions

- Eliminates the requirement that the following submissions required of a club applying for a D-4 liquor permit be done under oath:
 - A statement of the organization controlling the club certifying that the club is operated in the interests of a reputable organization; and
 - The roster of the club’s membership.
- Prohibits a to-go mixed beverage sold by a qualified liquor permit holder from exceeding the amount contained in a standard mixed beverage sold by the qualified permit holder for on-premises consumption.

VI. Division of Financial Institutions

- Increases initial registration, renewal, and late fees for mortgage brokers, lenders, and servicers, and increases original license, renewal, and late fees for mortgage loan originators.

- Authorizes the Superintendent of Financial Institutions to charge an additional assessment for renewal fees for mortgage brokers, lenders, servicers, and mortgage loan originators if the amount billed under the statute are less than the estimated expenditures for the following fiscal year.

VII. Self-service storage facilities

- Allows the sale of personal property in a self-service storage facility for the satisfaction of amounts due the facility owner to take place on the internet.
- Allows notices required to be sent before the sale of personal property kept in self-service storage facilities to be delivered by private delivery service.
- Requires that, if a required notice is sent by certified or first-class mail, then the notice is to also be sent via email.
- Expands the class of persons who may enforce liens under the Self-Service Storage Facility Law to include the sublessor of an entire self-service storage facility as well as agents of facility owners, lessors, and sublessors.
- Expands the costs to which proceeds from the sale of personal property held in a self-service storage facility may be applied to include late fees and expenses incurred to enforce a lien.
- Grants self-service storage facility owners discretion as to whether to rent previously delinquent self-service storage facility space or allow removal of the personal property following payment by a person other than the occupant.

I. Division of Securities

Ohio Investor Recovery Fund

(R.C. 1707.47 and 1707.471)

The act creates the Ohio Investor Recovery Fund (OIRF) for victims of securities fraud who have not received restitution from the perpetrators of the fraud pursuant to a final administrative order issued by the Division of Securities or a final court order in a civil or criminal proceeding initiated by the Division.

Obtaining a restitution assistance award

Under the act, the following victims are eligible for restitution assistance from the OIRF, with the maximum award limited to the lesser of \$25,000 or 25% of the monetary injury suffered by the victim in the final order:

- A natural person who is an Ohio resident;
- A person, other than a natural person, that domiciled in Ohio.

To receive a restitution assistance award, a claimant must submit an application to the Division on a form prescribed by the Division within 180 days after the date of the final order.

The Division may grant an extension for good cause shown, but in no case may the Division accept an application received more than two years following the date of the final order.

The act prohibits the Division from awarding restitution assistance as follows:

- To more than one claimant per victim;
- To a claimant on behalf of a victim that has received the full amount of restitution owed from the person ordered to pay restitution in the final order before the application for restitution assistance from the OIRF is filed;
- To a claimant if the final order identifies no pecuniary loss to the victim on whose behalf the application is made;
- To a claimant on behalf of a victim that assisted in the commission of the violation of the Securities Law;
- If the portion of the final order giving rise to a restitution order or otherwise establishing a pecuniary loss to the victim is overturned on appeal.

If, after the Division has made a restitution assistance award from the OIRF, the restitution award in the final order is overturned on appeal and all legal remedies have been exhausted, the claimant must forfeit the restitution assistance award.

Violations

A claimant may not knowingly file or cause to be filed an application or related documents that contain false, incomplete, or misleading information in any material respect. A claimant that violates this prohibition forfeits all restitution assistance and will be fined not more than \$10,000 by the Division. The Division must commence a proceeding relating to a violation not later than two years after the Division discovers, or through reasonable diligence should have discovered, the violation, whichever is earlier.

Funding the OIRF

The OIRF consists of all cash transfers from the Division of Securities Fund, which may not exceed \$2.5 million in any fiscal year. The OIRF may only be used for paying awards of restitution assistance and any expenses incurred in administering the OIRF.

If the OIRF is reduced below \$250,000 due to payment in full of awards that become final during a month, the Division must suspend payment of further claims that become final during that month and the following two months. At the end of this suspension period, the Division must pay the suspended claims. If the OIRF would be exhausted by payment in full, the Division must prorate the amount paid to each claimant according to the amount remaining in the OIRF at the end of the suspension period.

Under the act, the state is liable for a determination made by the Division only to the extent that money is available in the OIRF on the date the award is calculated. The act subrogates the state to the rights of the person awarded restitution assistance to the extent of the award. The subrogation rights are against the person that committed the securities violation or a person liable for the pecuniary loss. The act also permits the state to obtain a lien

on the award in a separation action brought by the state or through state intervention in an action brought by or on behalf of the victim.

Rules

The Division must adopt rules as necessary to implement the act's OIRF provisions, including rules governing the processes for both:

- Reviewing applications for restitution assistance awards; and
- Suspending awards or making a prorated payment of awards when the OIRF balance approaches or reaches a balance below \$250,000.

Elder financial exploitation

(R.C. 1707.49)

The act lays out procedures for dealers, investment advisers, and their employees to follow when they believe that an account holder who is an eligible adult may be the victim of financial exploitation.

An "eligible adult" is a person aged 60 or older or a person who is eligible to receive adult protective services (a person aged 60 or older who is handicapped by the infirmities of aging or who has a physical or mental impairment that prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement).

The term "financial exploitation" means either:

- The wrongful or unauthorized taking, withholding, directing, appropriation, or use of an eligible adult's money, assets, or property (assets); or
- Any act or omission by a person, including through the use of a power of attorney or guardianship, to do either of the following:
 - Through deception, intimidation, or undue influence, obtain control of an eligible adult's assets and thereby deprive the eligible adult of the ownership, use, benefit, or possession of the assets;
 - Convert (the civil equivalent of theft) an eligible adult's assets and thereby deprive the eligible adult of the ownership, use, benefit, or possession of the assets.

Under the act, if an employee of a dealer or investment adviser has reasonable cause to believe that an eligible adult who is an account holder may be subject to past, current, or attempted financial exploitation, the employee must follow the employing dealer's or investment advisor's internal procedures for reporting past, current, or attempted financial exploitation.

In addition, the dealer or investment adviser may place a hold on any transaction impacted by the suspected exploitation for up to 15 business days. The dealer or investment advisor must report the transactional hold, along with a summary of the facts and circumstances leading up to the hold, in writing immediately to the Division of Securities and to the county department of job and family services for the county where the eligible adult

resides. The dealer or investment advisor may continue the hold for up to another 15 business days either (1) at the request of an investigating federal or state agency or (2) if the dealer or investment adviser has not heard from either the Division or the county department within the initial 15-day hold period.

The act specifies that these provisions are not to be construed as limiting a dealer's or investment adviser's ability to seek injunctive relief from a court of competent jurisdiction at any time for any past, current, or attempted financial exploitation. It further provides that any person participating in good faith in making a report or placing a transactional hold is immune from any civil or administrative liability arising from the report or hold.

Any record made available to a state agency under these provisions is considered an investigative record and must therefore be retained by the Division and may not be available to inspection by persons other than those having a direct economic interest in the information or the transaction under investigation, or by law enforcement agencies, state agencies, federal agencies, and other entities as set forth by rules adopted by the Division. The dealer or investment adviser must maintain, for not less than five years, any record of a transactional hold, any report relating to the hold, and any notification of the hold.

Ohio Revised Limited Liability Company Act effective date

(R.C. 1706.83; Sections 610.1165 and 610.1166, amending Sections 4 and 5 of S.B. 276 of the 133rd General Assembly)

The act pushes back, from January 1, 2022, to February 11, 2022, the transition date for limited liability company regulation. The existing Limited Liability Company Act will be replaced by the new Ohio Revised Limited Liability Company Act. Limited liability companies are currently regulated under R.C. Chapter 1705. The new Revised Act was enacted by S.B. 276 of the 133rd General Assembly.

II. Division of Industrial Compliance

Sale of second-hand bedding and toys

(R.C. 3713.02)

The bill requires any person or entity wishing to sell or offer for sale second-hand bedding or used toys to register with the Superintendent of Industrial Compliance. Under current law, only persons or entities seeking to import, manufacture, renovate, wholesale, or reupholster stuffed toys or articles of bedding are required to register.

Plumbing inspector certification

(R.C. 3703.01; conforming change in R.C. 3703.03)

Under prior law, boards of health in city and general health districts were authorized to inspect plumbing in nonresidential buildings, provided they employed a plumbing inspector certified by the Division of Industrial Compliance. Health districts could also contract with other health districts or county building departments to inspect plumbing on their behalf, so long as the other health district or county building department employed a Division of Industrial

Compliance certified inspector. If the board of health employed a plumbing inspector or contracted for plumbing inspections, the Division of Industrial Compliance was barred from conducting plumbing inspections in that board's territory.

The act eliminates the Division of Industrial Compliance's authority and responsibility to certify plumbing inspectors. In its place, it relies on the existing plumbing inspector certification offered by the Board of Building Standards. The act also eliminates previous prohibitions on health districts inspecting plumbing, collecting fees for inspecting plumbing, or contracting with other health districts to inspect plumbing on the other health district's behalf, without employing a Division of Industrial Compliance certified inspector. It does not put in place a similar requirement mandating a Board of Building Standards certified inspector.

The act also changes the prohibition on the Division of Industrial Compliance inspecting plumbing in health districts where the board of health employs, or has contracted for the services of, a plumbing inspector. Under the act, the board of health must notify the Division of its intent to inspect plumbing in the district, in writing, and either employ a plumbing inspector or contract for the services of one.

Building inspection fees

(R.C. 3791.07)

Under continuing law, the Division of Industrial Compliance completes various inspections of plans, industrialized units, and buildings. Prior law allowed the Board of Building Standards to adopt a fee schedule for those inspections. The act transfers that authority to the Superintendent of Industrial Compliance. It also makes adoption of the fee schedule mandatory, rather than permissive, and requires it to be adopted in rules pursuant to the Administrative Procedure Act.

Historical boiler license

(R.C. 4104.32, 4104.33, 4104.34, 4104.35, 4104.36, and 4104.37; Sections 741.10 and 741.11)

The act restores the requirement that a person obtain a license in order to operate a historical boiler (a steam boiler of riveted construction that is preserved, restored, or maintained for hobby or demonstration) in a place that is open to the public. This requirement had been eliminated by H.B. 442 of the 133rd General Assembly, effective April 12, 2021.

It also re-creates the Historical Boilers Licensing Board and transfers nonlicensing duties related to historical boilers from the Division of Industrial Compliance in the Department of Commerce back to the Board. Duties transferred to the Board include:

- Adopting rules concerning the following:
 - Historical boiler inspections, repairs, and alterations;
 - Standards for the revocation of a historic boiler license;
 - Standards and procedures for conducting and reporting hydrostatic tests; and
 - Standards for the public display and operation of historical boilers in Ohio by operators who reside outside Ohio.

- Issuing triennial certificates of operation for historical boilers that pass inspection;
- Conducting hearings for a person who appeals a denial of a certificate of operation;
- Establishing fees for inspection;
- Granting approval of historical boiler operator courses;
- Determining the smallest size of historical boilers that are subject to the historical boilers law;
- Establishing criteria for safe operation of historical boilers;
- Appointing safety committees to conduct hydrostatic tests; and
- Establishing a minimum amount of liability insurance an owner must carry, if it determines that a minimum amount should be established.

Finally, the act requires the Board to issue a license to a person who held an active license to operate historical boilers in public on April 12, 2021 when the requirement for a license ended pursuant to H.B. 442.

Manufactured homes

(R.C. 4781.07, 4781.281, 4781.56, and 4781.57)

The act makes several technical changes by replacing outdated references to the former Manufactured Homes Commission with the reference to the Division of Industrial Compliance, the agency currently holding the responsibility for manufactured homes (other than their sale). The Commission was abolished in 2018 by H.B. 49 of the 132nd General Assembly, the main budget act for the FY 2018-FY 2019 biennium.

III. Division of Real Estate and Professional Licensing

Rulemaking relating to manufactured home sales

(R.C. 4781.04)

The act explicitly authorizes the Division of Real Estate and Professional Licensing to adopt rules pursuant to the Administrative Procedure Act (R.C. Chapter 119) necessary for the administration of its regulatory authority for the licensing of manufactured home dealers, brokers, and salespersons.

Real estate broker and salesperson contact information

(R.C. 4735.14)

The act sets a deadline for a licensed real estate broker and salesperson to notify the Superintendent of Real Estate and Professional Licensing of a change in personal residence address: 30 days after the change. Prior law required the notification, but did not specify a deadline.

The act also requires each licensee to maintain a valid email address on file with the Division and to notify the Superintendent of any changes in email address within 30 days after the change.

Ancillary trustees for brokers

(R.C. 4735.05)

The act expands the Superintendent's authority to recommend an ancillary trustee when there has been an incapacitation or incarceration of a licensed broker, if there is no other licensed broker within the brokerage, to continue the business transactions of the brokerage for a period of time not to exceed the period of incapacitation or incarceration. Under prior law, the Superintendent could only recommend an ancillary trustee upon the death of a licensed broker or the revocation or suspension of the broker's license.

Disposition of license fees

(R.C. 4735.15)

The act reduces the portion of triennial real estate broker's and salesperson's license fees to be credited to the Real Estate Education and Research Fund from \$3 per fee to \$1.50 per fee.

IV. State Fire Marshal

Fire investigation

(R.C. 3929.87)

Under prior law, the State Fire Marshal or another authorized person was required to determine whether property loss from fire and in excess of \$5,000 was caused by arson. The act modifies the determination requirement, providing that the State Fire Marshal or the authorized person must make the determination to the extent practicable and in a manner consistent with accepted standards of investigation.

Revolving loan program

(R.C. 3737.17)

Under the act, if the Director of Commerce determines that the balance in the Small Government Fire Department Services Revolving Loan Fund is insufficient to implement the Small Government Fire Department Services Revolving Loan Program, the Director may certify the amount needed to the OBM Director. This amount cannot exceed the amount appropriated to the program for the biennium. Once certified, the OBM Director may transfer from the State Fire Marshal's Fund to the Revolving Loan Fund any amount up to, but not exceeding, the amount certified by the Director of Commerce.

The State Fire Marshal administers the Revolving Loan Program and the fund to make loans to qualifying small governments to expedite major equipment purchases and the construction or renovation of fire department buildings.

Self-service gas stations

(R.C. 3741.14)

The act requires a self-service gas station to comply with the most recent version of National Fire Protection Association Standard Number 30A, as incorporated into the State Fire Code. Prior law required a self-service gas station to comply with the National Fire Protection Association standard number 30A-1990, which is not the most recent edition.

V. Division of Liquor Control

Direct beer and wine sales

Under former law, small in-state and out-of-state wineries that manufactured less than 250,000 gallons of wine annually were eligible for an S liquor permit. This permit allowed these wineries to sell and ship their wine directly to consumers. Wineries that were not eligible for or that did not have an S permit had to first sell their wine to a wholesale distributor. The distributor then sold the wine to a retailer, who then sold to consumers. A brand owner and U.S. importer of beer or wine was also eligible for an S permit and could sell the beer or wine directly to consumers.

The act changes the name of the S permit to the S-1 permit and changes the eligibility parameters for that permit. It also creates the S-2 permit that allows wineries that manufacture 250,000 gallons of wine or more annually to sell directly to consumers or to use a fulfillment warehouse to sell their wine directly to consumers. The act also makes changes to the law governing the B-2a liquor permit (wine manufacturers that self-distribute) and makes other conforming changes.

S-1 liquor permit eligibility changes

(R.C. 4301.10, 4301.12, 4301.30, 4301.42, 4301.62, 4303.03, 4303.031, 4303.2010, 4303.232, 4303.234 (renumbered 4303.235), 4303.33, 4303.332, 4303.333, and 4303.99)

The act renames the S liquor permit the S-1 liquor permit and revises the eligibility for it as follows:

1. It eliminates from eligibility a brand owner or U.S. importer of beer or wine and its designated agent;
2. It expands eligibility to a person (inside or outside Ohio) that manufactures beer; and
3. It retains eligibility for the S-1 permit for a person (inside or outside Ohio) that manufactures less than 250,000 gallons of wine annually, but eliminates the requirement that the wine manufacturer must be eligible for a specified federal tax credit in order to qualify for the S-1 permit.

S-2 liquor permit

(R.C. 4303.233)

As indicated above, the act creates the S-2 liquor permit, which may be issued to a person (inside or outside Ohio) that manufactures 250,000 gallons or more of wine annually. An

S-2 permit holder may sell and ship the wine it manufactures to a personal consumer or use a fulfillment warehouse (see below) to send a shipment of wine to a personal consumer. A fulfillment warehouse operates as an agent of an S-2 permit holder. An S-2 permit holder is liable for violations of the liquor control laws that are committed by the fulfillment warehouse regarding wine shipped on behalf of the S-2 permit holder.

The act establishes similar provisions as the S-1 permit regarding payment of wine taxes, shipment of wine, and keeping of sales records. The initial S-2 permit fee is \$250 and the renewal fee is \$100 per year.

Ohio grape industries tax

(R.C. 4301.43, 4301.432, 4303.33, and 4303.333)

The act requires an S-1 and S-2 liquor permit holder to pay the 30¢ per-gallon tax on wine (subject to the exemption below) and the additional 2¢ per-gallon tax on wine that is used to support the Ohio Grape Industries Fund. Under former law, an S liquor permit holder had to pay the 2¢ per-gallon tax, but was not required to pay the 30¢ per-gallon tax.

The act exempts S-1 and S-2 permit holders that manufacture 500,000 gallons of wine or less per year from the 30¢ per-gallon tax. Formerly, the exemption applied only to Ohio-based wine manufacturers that manufactured 500,000 gallons of wine or less per year.

Beer tax exemption

(R.C. 4303.332)

The act eliminates the tax credit for small breweries (A-1c liquor permit holders) for the state beer tax. The tax credit applied to the first 9.3 million gallons of beer sold or distributed in Ohio by an A-1c permit holder (which is permitted to produce up to 31 million gallons of beer annually). Instead, the act establishes a tax exemption from the beer tax for A-1c permit holders that produce up to 9.3 million gallons per calendar year. Thus, the tax exemption does not apply to all A-1c permit holders as did the former tax credit. Finally, it also applies the exemption to an S-1 permit holder that produces up to 9.3 million gallons of beer annually.

Wine fulfillment warehouse

(R.C. 4303.234)

The act authorizes a fulfillment warehouse to send a shipment of an S-2 permit holder's wine to a personal consumer via an H liquor permit holder (alcohol transporter). A fulfillment warehouse is a person that operates a warehouse that is located outside Ohio and has entered into a written agreement with an S-2 permit holder to fulfill orders of the S-2 permit holder's wine to personal consumers.

A fulfillment warehouse must provide a report annually, by March 1, in electronic format by electronic means to the Division of Liquor Control that includes the following:

1. The name and address of the fulfillment warehouse, including satellite warehouses operated by the fulfillment warehouse that are used to ship wine to personal consumers in Ohio;

2. The name and address of each S-2 liquor permit holder with which the fulfillment warehouse has entered into an agreement;
3. The name and address of each personal consumer that the fulfillment warehouse sends wine to and the quantity of wine purchased by the personal consumer; and
4. The shipping tracking number provided by the H permit holder for each shipment of wine delivered to a personal consumer.

The Division must prescribe and provide an electronic form for the report and must determine the specific electronic means that the fulfillment warehouse must use to submit the report. Finally, the Division may adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119) that are necessary to administer and enforce these provisions.

B-2a liquor permit changes

(R.C. 4303.071)

The act revises the eligibility for the B-2a liquor permit as follows:

1. It eliminates from eligibility the brand owner or U.S. importer of wine and its designated agent;
2. It expands eligibility to a person that manufactures any amount of wine by eliminating both of the following:
 - a. A requirement that a manufacturer may only produce under 250,000 gallons annually; and
 - b. A requirement that a manufacturer must be eligible for a specified federal tax credit.

Finally, the act prohibits a B-2a permit holder from selling wine that has been assigned an Ohio distribution territory. Continuing law establishes sales territories for wholesale distributors of specific brands of wine. Generally, a wholesale distributor cannot sell outside its sales territory.

Under continuing law, a B-2a permit allows a manufacturer to sell its wine directly to retailers without first selling to a wholesale distributor.

Illegal shipment of beer and wine

(R.C. 4303.233 (renumbered 4303.236) and 4303.99)

The act establishes both of the following prohibitions regarding the illegal shipment of beer or wine:

1. It prohibits a person from knowingly sending or transporting a shipment of wine to a personal consumer unless:
 - a. The wine is a to-go serving of wine delivered by a retail liquor permit holder;
 - b. The wine is delivered by specified permit holders as authorized under continuing law;

- c. The person holds an S-1 or S-2 permit; or
 - d. The person is a fulfillment warehouse.
2. It prohibits a person from knowingly sending or transporting a shipment of beer to a personal consumer without an S-1 permit unless:
- a. The beer is a to-go serving of wine delivered by a retail liquor permit holder;
 - b. The beer is delivered by specified permit holders as authorized under continuing law.
- A violator may be fined between \$500 and \$5,000, depending on the number of violations.

Retail permit holder prohibition

(R.C. 4303.236)

The act prohibits a person that is not a beer or wine manufacturer, including the holder of any retail permit inside or outside Ohio, from obtaining or attempting to obtain a B-2a, S-1, or S-2 permit. The act does not establish a penalty for violators of this prohibition.

Repackaging of alcohol

(R.C. 4303.237)

The act authorizes the repackaging of beer, wine, or mixed beverages, which is the rebundling of containers of those products into new container configurations or with other promotional merchandise. Either of the following may engage in repackaging, provided an R liquor permit, created by the act, is obtained from the Division of Liquor Control:

1. A manufacturer or supplier of beer, wine, or mixed beverages; or
2. An entity operating under a written authorization from the manufacturer or supplier to operate a repackaging facility.

The act allows an R permit holder to deliver repackaged products only to the following:

1. The manufacturer or supplier that supplied the beer, wine, or mixed beverages to the R permit holder for repackaging purposes;
2. A wholesale distributor (B liquor permit holder) that is authorized by the beer, wine, or mixed beverages manufacturer or supplier to sell or distribute the repackaged products in Ohio; or
3. An entity outside Ohio if so authorized by the beer, wine, or mixed beverages manufacturer or supplier.

An R permit holder must ensure all of the following:

1. That repackaged products delivered to a B permit holder have been registered with the Division;
2. It does not deliver more repackaged products to a B permit holder than the B permit holder specifically ordered; and

3. That a territory designation form has been filed with the Division for the products.

The act provides that title to repackaged products in the possession of an R permit holder remains with the manufacturer or supplier for whom repackaging is being conducted. Further, the Liquor Control Commission must revoke an R permit if the R permit holder possesses or delivers beer, wine, or mixed beverages in violation of the act. An R permit holder cannot have any financial interest in any other permit authorized under the liquor control laws, except that a manufacturer may hold a manufacturing liquor permit. Finally, the fee for the R permit is \$750 for each location.

Serving containers in DORAs

(R.C. 4301.82)

The act requires qualified liquor permit holders in designated outdoor refreshment areas (DORAs) to serve beer or intoxicating liquor in plastic bottles or other “nonglass” containers. Former law exclusively required the use of plastic bottles or other plastic containers.

D-4 liquor permit – club oaths

(R.C. 4303.17)

The act eliminates the requirement that the following submissions required of a club applying for a D-4 liquor permit be done under oath:

- A statement of the organization controlling the club certifying that the club is operated in the interests of a reputable organization; and
- The roster of the club’s membership.

The D-4 permit allows a club to sell beer and intoxicating liquor to its members for on-premises consumption.

To-go cocktails

(R.C. 4303.185)

The act prohibits a to-go mixed beverage sold by a liquor permit holder from exceeding the amount contained in a standard mixed beverage sold by the qualified permit holder for on-premises consumption. Current law allows bars, restaurants, breweries, wineries, and microdistilleries to sell to-go cocktails to a personal consumer for off-premises consumption, including via delivery to the location of the personal consumer. The to-go cocktails are sold by the individual drink in sealed, closed containers.

VI. Division of Financial Institutions

Residential mortgage lending fee increases

(R.C. 1322.09, 1322.10, 1322.20, and 1322.21)

The act increases the licensing and registration fees under the Residential Mortgage Lending Act paid to the Superintendent of Financial Institutions as follows:

Type of fee	Prior fee	New fee
Initial registration and renewal fee for mortgage brokers, lenders, and servicers for each office maintained by the registrant	\$500	\$700
Late fee for renewal for each registered office maintained by a mortgage broker, lender, and servicer	\$100	\$150
Initial license and renewal fee for mortgage loan originators	\$150	\$200
Late renewal fee for mortgage loan originators	\$100	\$150

VII. Self-service storage facility

(R.C. 5322.01, 5322.02, and 5322.03)

Continuing law defines a “**self-service storage facility**,” in general terms, as real property that is designed and used only to rent individual storage space to occupants whose access is limited to storing or removing personal property.

The act modifies the procedures self-service storage facility owners may use, primarily through liens the law places on personal property stored at a facility, when occupants default on their obligations.

Self-service storage facility liens

Continuing law grants self-service storage facility owners liens on personal property kept in the facilities pursuant to rental agreements. The act includes late fees and expenses incurred in the enforcement of the lien as expenses that the liens secure. Under continuing law, the liens secure expenses for rent, labor, or other charges specified in the rental agreement that have become due, and for expenses necessary for the preservation of the property or reasonably incurred in the disposition of the property.

Lien enforcement

A self-service storage facility owner who wishes to enforce a lien on personal property kept in the facility must follow certain procedures established by law. The requirements are mandatory and exclusive, as continuing law states that an owner’s lien can only be enforced pursuant to the Self-Service Storage Facility Law.

The act modifies those procedures by changing requirements for the sale itself, changing who qualifies as an “owner” and thus who may enforce the lien, and several aspects of the law’s notice and advertising requirements.

Sale requirements

Self-service storage facility liens are enforced through the sale of personal property held in the facilities. Before a sale may take place, notice and advertising procedures must be followed, but those procedures are affected by the act’s changes. Specifically, continuing law,

amended in part by the act, requires the sale of personal property to be held at the self-service storage facility or at the nearest suitable place to the facility, so long as the address of that place is included on the required notice.

The act adds the internet to the allowable sale locations and also makes the listed sale locations permissive rather than exclusive.

“Owner” – who may enforce the lien

Under continuing law, revised in part by the act, an “owner” is a person who receives rent from occupants pursuant to rental agreements in the person’s capacity as the owner of the self-service storage facility or the lessor of the entire facility. The act expands who qualifies as an owner to also include operators and sublessors of an entire facility, as well as the agents of an owner, operator, lessor, or sublessor who are authorized to manage a facility or receive rent from occupants pursuant to rental agreements.

Required notice and advertisement

An owner seeking to enforce a lien through the sale of personal property must provide notice to the following persons under continuing law:

- All persons who claim an interest in the personal property and who the owner has actual knowledge of;
- All persons who hold liens on motor vehicles or watercraft amongst the property; and
- All persons who have filed security agreements, with relevant officials, in the name of the occupant showing a security interest in the property.

The act modifies the contents of the notice and expands the manner in which notice may be delivered.

Under continuing law, revised in part by the act, the notice must include, among other things unaffected by the act:

- A demand for payment within a specified time, not less than ten days after delivery of the notice;
- A conspicuous statement that unless the claim is paid, the personal property will be advertised for sale and sold by auction at a specified time and place;
- The address of the place where the sale will take place if it will be held at a location other than the self-service storage facility; and
- The name of the towing company that will presumably tow the vehicle.

The act removes the requirement that a specified time and place for the auction be listed in every notice, and clarifies that if the sale is to be held at a place other than the self-service storage facility, the street or internet address be provided, rather than simply an address.

With respect to delivery methods, continuing law requires the notice to be delivered in person, sent by certified mail, or sent by first-class mail with a certificate of mailing to the last known address of each person who must be given notice. The act also permits notice to be

made by email or private delivery service and makes related modifications to the circumstances under which notice will be presumed to be delivered. Additionally, the act requires that if the notice is sent by email, then the notice must also be sent via either certified or first-class mail to the last known address of each person who is required to be notified.

Under prior law, notice was presumed delivered if sent by first-class mail with a certificate of mailing when it was deposited with the U.S. Postal Service and properly addressed with proper prepaid postage. The act specifies that notices are “deemed” delivered when sent by U.S. Postal Service, private delivery service, or email so long as certain conditions are met. For U.S. Postal Service and private delivery service, the notice is deemed delivered when deposited with the service so long as it is sent with a verification of mailing, properly addressed, and the postage is prepaid. For email, the notice is deemed delivered when it is properly addressed and sent.

After the expiration of the time given in the notice, continuing law requires the owner to advertise the sale, and include all of the following in the advertisements:

- A general description of the personal property;
- The name and last known address of the occupant;
- The self-service storage facility’s address; and
- The time, place, and manner of the sale.

The act specifies that it is the self-service storage facility’s street address, rather than an unspecified type of address, that must be included in the advertisement alongside the time, place, and manner of the sale.

Continuing law, revised by the act, states that an advertisement will be deemed commercially reasonable if at least three independent bidders attend the sale at the time and place advertised. The act maintains the three independent bidders requirement, but allows their registration for, viewing of, or attendance at the sale to demonstrate commercial reasonableness.

Payment by others

Continuing law allows any person who has a legal interest or a security interest in, or who holds a lien against, personal property other than a motor vehicle or watercraft, to pay the self-service storage facility owner’s lien and reasonable expenses and remove the personal property from the facility. Continuing law, revised in part by the act, also states that, upon receipt of payment from a person other than the occupant, the owner must either allow the personal property to be removed or enter into a new rental agreement for the storage of the personal property. The act modifies this provision to state that the owner may, at his or her sole discretion, allow the person to enter into a new rental agreement or permit the person to remove the personal property from the self-service storage facility.

After property is removed

After all personal property is removed from a self-service storage facility pursuant to the law (e.g., through sale at auction or removal by another person with an interest in the property), provision is made for the vacated space. Under prior law, any person could enter into a rental agreement for the storage for personal property with the owner, and the owner had no obligation to the prior occupant of the space in the self-service storage facility. Prior law also stated that, before entering into a new rental agreement, the facility owner had to have any motor vehicle or watercraft towed from the storage space.

The act revises these provisions to state that the owner may enter into a rental agreement with a new occupant, rather than that any person may enter into a rental agreement with the owner. It also eliminates the requirement that the owner first have any motor vehicle or watercraft towed from the storage space, though that requirement may have been redundant as the law only made provision for new rental agreements once all personal property was removed.

Delivery of excess funds

Continuing law requires self-service storage facility owners to deliver the balance of any funds obtained from the sale of personal property under a lien to the occupant whose property was sold. Prior law stated that the balance was to be sent by certified mail to the occupant's last known address. The act clarifies that the balance is to be sent to the occupant's last known mailing address, and also allows it to be sent by first class mail or private delivery service with a certificate or verification of mailing.