Ohio Legislative Service Commission

Tom Middleton

Fiscal Note & Local Impact Statement

Bill: S.B. 173 of the 130th G.A. **Date**: November 13, 2013

Status: As Introduced **Sponsor**: Sen. Hughes

Local Impact Statement Procedure Required: No

Contents: Modifies the law governing the sale of spirituous liquor tasting samples at agency stores

State Fiscal Highlights

- The bill adjusts the laws governing spirituous liquor tasting events that can be hosted within the 466 contract liquor agencies in Ohio.
- The changes in the bill may result in an increase in applications for D-8 liquor permits so that more agency stores are able to host spirituous liquor tasting events. This may result in an increase of up to $130,000 per year in revenue from the additional permits. Additional D-8 permit fee revenue would be deposited into the Undivided Liquor Permit Fund (Fund 7066) and subsequently distributed to the State Liquor Regulatory Fund (Fund 5LP0) used by the Division of Liquor Control within the Department of Commerce (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%).
- There would also be a minimal gain in revenue to the Liquor Control Fund (Fund 7043) from the $100 processing fee that accompanies all permanent liquor permit applications.
- Any increase in spirituous liquor sales resulting from the bill would go to JobsOhio; however, the Division of Liquor Control would likely receive a proportional share subject to its contract with JobsOhio to accommodate additional merchandising expenses.

Local Fiscal Highlights

- If more D-8 liquor permits are issued, the local taxing district would receive a portion of the liquor permit fees collected by the state and deposited into the Undivided Liquor Permit Fund (Fund 7066). Current law specifies that local taxing districts are to receive 35% of the permit fees attributable to permitted establishments within their jurisdiction. These revenues would presumably offset any local costs as a result of additional liquor permits.

Detailed Fiscal Analysis

Background on agency stores and spirituous liquor profits

Currently, the state contracts with 466 privately owned and operated businesses, known as contract liquor agencies, to serve as its sales agents for spirituous liquor (alcoholic products containing more than 21% alcohol content by volume). Each agent accounts for all sales and makes daily deposits of proceeds derived from the sale of spirituous liquor into a checking account in their own name and federal tax identification number. The Division of Liquor Control (DOLC) within the Department of Commerce then withdraws funds via an automated clearinghouse (ACH) transaction pursuant to an authorization included in the agency contract. Each agent is paid a commission of 6% on retail sales and 4% on wholesale sales.

Effective February 1, 2013, JobsOhio owns the state's exclusive right to manage and control spirituous liquor distribution and sales and to sell spirituous liquor. However, JobsOhio contracts with DOLC to run the liquor merchandising business operations. Consequently, DOLC continues to administer the spirituous liquor inventory and oversight of the distribution of liquor to the contract liquor agencies, while the profits from spirituous liquor sales fund JobsOhio's mission to work with businesses to spur job creation and capital investment in the state. JobsOhio received approximately $187.2 million in liquor profits in FY 2013.

S.B. 173 fiscal effects – spirituous liquor tasting events

DOLC retains the liquor permitting and regulatory functions under continuing law. Currently, contract liquor agencies can apply for a D-8 liquor permit to host spirituous liquor tasting events, conducted by a manufacturer, supplier, or brokers, offering the sale of limited tasting samples of spirituous liquor products. Tasting events must be separately approved by DOLC, and can last up to two hours. Stores can host up to five events per month. A sample size is 0.25 ounces, and not more than four samples (totaling one ounce) can be purchased per person. They are limited to the spirituous liquor sales area of the store, conducted by marketing professionals representing the spirits supplier or manufacturer who have received alcohol server training to ensure compliance with the Ohio Liquor Control Law.

S.B. 173 most notably makes two changes to the governance of spirituous liquor tasting events by (1) increasing the number of events that can be hosted at an agency store, from five times per month in current law to three times per week, and (2) allowing the event to be held in an area adjacent to the agency store, instead of only inside the store in existing law. These two changes would likely result in an increase in spirituous liquor tasting events across the state.

First off, these changes may result in more agency stores applying for, and being issued, a D-8 permit to host spirituous liquor tasting events. Of the 466 agency stores, 206 have D-8 liquor permits and so can already host these events. The D-8 permit application fee is $500, and permits are renewed annually. Consequently, any of the 260 agency stores that do not have D-8 permits currently could apply, so up to $130,000 in new permit revenue could be generated annually ($500 x 260 agency stores). Additional liquor permit fee revenue would be deposited into the Undivided Liquor Permit Fund (Fund 7066) and 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%). There would also be a minimal gain in revenue to the Liquor Control Fund (Fund 7043) from the $100 processing fee that accompanies all permanent liquor permit applications.

Additionally, the changes in the bill may result in increased spirituous liquor sales. Agency stores would be able to host up to around 156 tasting events per year (3 events per week x 52 weeks), instead of up to 60 events per year in current law (5 events per month x 12 months). As such, an increase in tasting events may indirectly lead to more consumer exposure and greater spirituous liquor sales in aggregate. All spirituous liquor profits go to JobsOhio. However, DOLC would likely receive a proportional share of this revenue subject to its contract with JobsOhio to accommodate any additional merchandising expenses.

Other provisions in the bill would (1) alter the requirements regarding the purchase of spirituous liquor that is to be used for a tasting event and (2) require that DOLC is provided notification of a tasting event ten days prior to the event, instead of five days in current law. These provisions have no apparent fiscal effect to the state or political subdivisions.

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