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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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H.B. 674\*  
133<sup>rd</sup> General Assembly

## Bill Analysis

[Click here for H.B. 674's Fiscal Note](#)

**Version:** As Reported by House Commerce and Labor

**Primary Sponsor:** Rep. Hillyer

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### SUMMARY

#### **Amnesty from enforcement measures**

- States that a public health or alcohol permitting authority must not take any disciplinary action or, if disciplinary action has been initiated, must cease taking an action, against a specified liquor permit holder if both of the following apply:
  - The disciplinary action is based on a violation of an order relating to COVID-19 and the violation occurred prior to June 1, 2020; and
  - Other than violating the order, the permit holder operated in compliance with the permit holder's liquor permit.

#### **Sole and exclusive regulation of alcohol**

- States that the General Assembly has the sole and exclusive authority to regulate the sale and distribution of beer and intoxicating liquor in Ohio under the Twenty-first Amendment to the U.S. Constitution (repeal of Prohibition).
- Finds that the General Assembly's authority to so regulate is exercised through the liquor control laws and other relevant statutes.

#### **Sales of alcohol on Sunday**

- Generally eliminates statutory limitations on Sunday sales of alcohol.
- Generally authorizes a retail liquor permit holder (A-1-A, A-2, A-2f, A-3a, A-5, or class C or D liquor permit) or an agency store to sell beer or intoxicating liquor on Sunday

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\* This analysis was prepared before the report of the House Commerce and Labor Committee appeared in the House Journal. Note that the legislative history may be incomplete.

during the same hours that the permit holder or contract holder may sell those products on Monday through Saturday.

- Authorizes beer manufacturers (A-1 and A-1c permits) and temporary liquor permit holders (F Class) to sell on Sunday during the same hours that the permit holder may sell those products on Monday through Saturday.
- Excludes from the general authorization retail liquor permit holders that are in a precinct in which the voters have voted “no” on Sunday sales in the ten years prior to the bill’s effective date.
- Generally eliminates local option elections concerning Sunday sales of beer or intoxicating liquor, but provides a mechanism by which the voters – in a precinct in which the voters have voted “no” in the previous ten years – may authorize Sunday sales for a particular location or part or all of a precinct.
- Regarding the number of petition signatures required to place a Sunday sales question on the ballot, requires 50 people or 35% of the people who voted in the last gubernatorial election, whichever is less, to sign the petition rather than 35% of the people who voted in the last gubernatorial election, as provided in current law.
- Eliminates the D-6 liquor permit, which allows a retail liquor permit holder to sell beer or intoxicating liquor on Sunday between 10 a.m. or 11 a.m. and midnight.

## **Holiday sales**

- Eliminates the authority of the Liquor Control Commission to adopt rules for sales of beer and intoxicating liquor on holidays.

## **Local option election – 24-hour sales**

- Authorizes voters in a precinct to vote to allow either of the following:
  - If the precinct is currently dry (does not allow sales of alcohol), the sale of beer, wine, mixed beverages, or spirituous liquor for on- or off-premises consumption 24 hours a day Monday through Sunday; or
  - If the precinct is currently wet in some form (allows sales of alcohol at a particular location, in part of the precinct, or in entire precinct), the expansion of the sale of beer, wine, mixed beverages, or spirituous liquor for on- or off-premises consumption to 24 hours a day Monday through Sunday.
- If voters approve the sale or expansion of the sale of beer or intoxicating liquor, requires the Division of Liquor Control to issue a K liquor permit (created by the bill) to a specified liquor permit holder to sell beer, wine, mixed beverages, or spirituous liquor 24 hours a day Monday through Sunday.

## **Sales of alcoholic beverages to 4 a.m.**

- Creates the J liquor permit, and authorizes the Division to issue a J permit to a specified liquor permit holder to extend the hours of operation to 4 a.m. on Saturday and Sunday only.

## **Outdoor refreshment areas (DORA)**

- Eliminates the requirement that the legislative authority of a municipal corporation or township take action to approve the formation of a DORA other than the adoption of health and safety protocols.
- Requires only two qualified retail liquor permit holders, rather than four as provided in current law, to be located in a DORA.
- Eliminates limitations on the number of DORAs that a municipal corporation or township may create within its borders, based on population.
- Eliminates the acreage limitations on the area of a DORA.

## **Food sales by brewpubs**

- Exempts certain brewpubs (A-1-A liquor permit holders) from the requirement to obtain a retail food establishment or food service operation license from a local board of health and operate as a restaurant.
- Instead, allows a brewpub to:
  - Serve prepackaged meals and nonalcoholic beverages, as well as beer and intoxicating liquor, under exemptions from board of health regulation established by the bill in the retail food establishment and food service operations law; or
  - Maintain a schedule with the owner or operator of a mobile retail food establishment or a mobile food service operation licensed by a local board of health to serve food to the brewpub's customers.

## **Alcohol consumption in restricted areas of airports**

- Expands the area in which a person who buys beer or intoxicating liquor from a restaurant at a public airport (D-5d liquor permit holder) may consume the beer or intoxicating liquor.
- Specifies that the expanded area includes the portion of the airport in which people are taking flights to and from the airport, provided certain conditions are met, including the airport's governing body authorizes consumption in the area.

## **F-11 liquor permit**

- Authorizes the Division to issue an F-11 liquor permit to a nonprofit organization to conduct an event if the event has certain characteristics, including:
  - The event is coordinated by the nonprofit organization and the nonprofit organization is responsible for the activities at the event; and

- One of the event’s purposes is the introduction, showcasing, or promotion of craft beers manufactured in Ohio.
- Establishes duties and responsibilities for F-11 permit holders, and allows the permit holder to sell, at the event, beer that it has purchased from the breweries that are participating in the event.
- Establishes requirements and procedures for the issuance of an F-11 permit.

### **Gifts of glassware**

- Allows a manufacturer or supplier of alcoholic beverages to provide glassware intended for the serving of beer to a permit holder authorized to sell beer for on-premises consumption if the manufacturer or supplier provides a receipt to the permit holder.
- Establishes requirements and procedures for the provider and receiver of the glassware.

### **Use of social media for advertising**

- Allows a distributor, manufacturer, trade marketing professional, solicitor, or broker of alcoholic beverages to use free services provided by social media to advertise certain events, including:
  - An on-premises brand promotion – a promotion of a beer or intoxicating liquor brand by a distributor, manufacturer, trade marketing professional, solicitor, or broker of that brand at a retail permit premises; and
  - A product location communication – a listing or program that allows an individual to determine the availability of a specific beer or intoxicating liquor brand at retail liquor permit holders or agency stores in a certain geographic area.

### **F permit leasing agreements with manufacturers**

- Exempts a manufacturer’s lease or rental of property to an F class liquor permit holder from the existing restrictions on the interrelationship between alcoholic beverage manufacturers, distributors, and retailers.

### **Severability**

- Provides that the bill’s provisions are severable.

### **Emergency**

- Declares an emergency.

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## **DETAILED ANALYSIS**

### **Amnesty from enforcement measures**

The bill alters the enforcement authority of the Department of Health, a board of health, the Division of Liquor Control, or the Liquor Control Commission (permitting authority) over violations of COVID-19-related orders committed by liquor permit holders. Specifically, a permitting authority must not take any disciplinary action or, if disciplinary action has been initiated, must cease taking an action, against a retail liquor permit holder for a violation if both of the following apply:

1. The violation occurred prior to June 1, 2020, and the disciplinary action is based on a violation of an executive order addressing COVID-19 or any other order related to the executive order; and
2. Other than violating the order, the retail permit holder operated in compliance with the retail permit holder's liquor permit.

A retail permit holder is an A-1, A-1-A, A-1c, A-2, A-2f, A-3a, E, or class C or D liquor permit holder (see "**Background**," below).<sup>1</sup>

## **Sole and exclusive regulation of alcohol**

The bill states that the General Assembly finds that the Twenty-first Amendment to the U.S. Constitution (repeal of Prohibition) confers upon the state of Ohio sole and exclusive authority to regulate the sale and distribution of beer and intoxicating liquor in Ohio. The bill declares that this authority, so conferred, has rested with the state of Ohio since the ratification of the Twenty-first Amendment.

The General Assembly also finds that its authority to so regulate is exercised through the liquor control laws and other relevant statutes. The laws and statutes reflect the intent of the General Assembly to do all of the following:

1. Promote temperance by preventing consumption of beer and intoxicating liquor by underage persons and by discouraging abusive consumption;
2. Promote orderly markets by requiring transparent, accountable, and stable distribution of beer and intoxicating liquor and preventing unfair competition; and
3. Facilitate the collection of taxes related to the sale and consumption of beer and intoxicating liquor.<sup>2</sup>

## **Sales of alcohol on Sunday**

### **Background**

Generally, a retail liquor permit holder (A-1-A, A-2, A-2f, A-3a, or class C or D liquor permit holder, see "**Background**," below) only may sell beer and intoxicating liquor for on- or off-premises consumption on Sunday if:

1. The permit holder is authorized to do so by a local option election; and
2. For sales of intoxicating liquor, the permit holder is issued a D-6 liquor permit. Intoxicating liquor includes wine, mixed beverages, and spirituous liquor.

The D-6 permit allows a retail liquor permit holder to sell wine, mixed beverages, or spirituous liquor (as allowed by the permit holders permit) on Sunday between 10:00 a.m. or 11:00 a.m. and midnight. The D-6 permit is not required for the sale of beer on Sunday.

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<sup>1</sup> Section 4.

<sup>2</sup> R.C. 4301.011.

On Monday through Saturday, a retail liquor permit holder generally may sell beer and intoxicating liquor between 5:30 a.m. and 1:00 a.m. or 2:30 a.m., depending on the type of permit. An agency store may sell spirituous liquor during hours specified in the store's contract with the Division of Liquor Control. According to a Division spokesperson, the agency store's hours of sale are authorized generally between 9:00 a.m. and 11:00 p.m. each day.

### **Sunday sales of alcohol**

Generally, the bill eliminates statutory limitations on Sunday sales of beer and intoxicating liquor and, as a result, does all of the following:

1. Authorizes retail liquor permit holders, breweries (A-1 and A-1c permits), holders of temporary liquor permits, and agency stores to sell beer, wine, mixed beverages, or spirituous liquor, as applicable, on Sunday during the same hours that the permit holder or contract holder may sell those products on Monday through Saturday.
2. Eliminates most local option elections authorizing Sunday sales of beer, wine, mixed beverages, or spirituous liquor (but see, "**Exclusions**," below); and
3. Eliminates the D-6 liquor permit.

### **Exclusions**

Under the bill, retail liquor permit holders and agency stores are excluded from the general authorization for Sunday sales if located in a precinct or part of a precinct in which voters had previously voted "no" on Sunday sales in the ten years prior to the bill's effective date. Additionally, a particular retail permit holder or agency store is excluded if the voters voted "no" regarding the particular location during that ten-year period.

The bill does provide a mechanism by which the voters may subsequently authorize those Sunday sales for a particular location or part or all of a precinct. Once Sunday sales are so authorized, no vote on Sunday sales may subsequently occur regarding the particular location or precinct.<sup>3</sup>

### **Other changes**

The bill revises the number of signatures that are needed to place a Sunday sales question described above on the ballot for a particular location or in part or all of a precinct. It requires 50 people or 35% of the people who voted in the last gubernatorial election, whichever is less, to sign a petition to place a question on the ballot. Current law requires 35% of the people who voted in the last gubernatorial election to sign a petition.<sup>4</sup>

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<sup>3</sup> R.C. 4303.182 (repealed and reenacted); makes conforming changes to R.C. 4301.03, 4301.22, 4301.24, 4301.32, 4301.322, 4301.33, 4301.332, 4301.333, 4301.334, 4301.351 (repealed), 4301.353, 4301.354 (repealed), 4301.355, 4301.356, 4301.361 (repealed), 4301.362, 4301.364 (repealed), 4301.365, 4301.366, 4301.37, 4301.39, 4301.403, 4301.404, 4301.99, 4303.184, 4303.19, 4303.202, 4303.203, 4303.204, 4303.205, 4303.30, and 4303.99.

<sup>4</sup> R.C. 4301.33, 4301.332, and 4301.333.

The bill also includes a manufacturer of alcoholic ice cream (A-5 permit) in the definition of retail permit holder.<sup>5</sup>

## **Holiday sales**

The bill eliminates the authority of the Liquor Control Commission to adopt rules for sales of beer and intoxicating liquor on holidays.<sup>6</sup> According to a spokesperson for the Division, there have not been any rules for sales of beer and intoxicating liquor on holidays for at least ten years.

## **Local option election – 24-hour sales**

### **Overview**

The bill authorizes the voters of an election precinct to approve, via a local option election, the sale of beer, wine, mixed beverages, and spirituous liquor 24 hours per day. Under current law, alcoholic beverage sales must stop at either 1:00 a.m. or 2:30 a.m., depending on the type of liquor permit issued to the premises. On Monday through Saturday, those sales may resume at 5:30 a.m. However, on Sunday, if sales are authorized, sales may resume at 10:00 a.m. or 11:00 a.m., depending on when voters approved those sales to begin.

### **Effect of 24 hour sales questions**

#### **Dry precinct**

Under the bill, if the voters in a precinct that is currently dry (meaning no alcohol sales are allowed) vote to approve 24-hour sales, the election has two effects:

1. The sale of beer, wine, mixed beverages, or spirituous liquor is approved in the precinct and the Division of Liquor Control may issue applicable liquor permits for those sales;<sup>7</sup> and
2. A liquor permit holder may conduct those sales 24 hours a day Monday through Sunday, provided the permittee obtains a K liquor permit (see below).

If the voters of a dry precinct vote “no” on the 24-hour sales question, the precinct remains dry.

#### **Wet precinct**

If the voters in a precinct that is currently wet in some form (particular location, part of the precinct, or entire precinct) vote “yes” on the question of 24-hour sales, liquor permit holders that were authorized to sell prior to the election may conduct those sales 24 hours a day Monday through Sunday. Each such liquor permit holder must obtain a K liquor permit (see

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<sup>5</sup> R.C. 4303.182(A)(3).

<sup>6</sup> R.C. 4301.03(I).

<sup>7</sup> Specifically, the bill would allow an A-1-A, A-1c, A-2, A-2f, A-3a, C-1, C-2, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, or D-7 permit holder to sell 24 hours a day.



below) to conduct 24-hour sales. Thus, for example, if voters in a precinct have previously approved sales of beer, wine, mixed beverages, or spirituous liquor at a particular location at the time of the election, that particular location is now authorized to sell 24 hours a day (provided a K liquor permit is issued for the location).

If a wet precinct votes “no” on the question, sales continue in the precinct under the authority of any previous election in effect.<sup>8</sup> For example, if voters vote “no” and the voters had previously allowed a particular bar or restaurant to sell beer, wine, mixed beverages, or spirituous liquor, the bar or restaurant may continue to sell those alcoholic beverages until 1:00 a.m. or 2:30 a.m., depending on the relevant permit.

### **K liquor permit**

The bill requires the Division to issue a K liquor permit to a liquor permit holder located in a precinct that has voted to authorize 24-hour sales. The K permit authorizes the sale of beer, wine, mixed beverages, or spirituous liquor 24 hours per day Monday through Sunday. What type of alcohol may be sold by a permit holder depends on the holder’s underlying permit. For example, the holder of a D-1 permit, which authorizes the sale of beer for on- and off-premises consumption, may sell beer 24 hours per day when issued the K permit. The fee for the K permit is \$100.

If requested, the Division must issue a K permit to any A-1-A, A-1c, A-2, A-2f, A-3a, C-1, C-2, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, or D-7 liquor permit holder (see “**Background**,” below) located in a precinct in which 24-hour sales have been approved.<sup>9</sup>

### **24-hour sales: background (current local option elections)**

Current law authorizes elections to be held in an election precinct on various questions relating to the sale of beer, wine, mixed beverages, and spirituous liquor. Some of these questions relate to the sale of specific alcoholic beverages for on-premises consumption, while other questions pertain to sales of specific alcoholic beverages for off-premises consumption. Separate questions govern Sunday sales of alcoholic beverages. Most questions submitted to the voters of a precinct relate to sales throughout the entire precinct, but some govern sales in a portion of a precinct or at a particular location.

### **Sales of alcoholic beverages to 4:00 a.m.**

The bill states that notwithstanding any provision of law that restricts the hours of sale of beer and intoxicating liquor, the Division may issue a J liquor permit to a specified liquor permit holder to extend the hours of operation of the applicable permit. A J permit holder may sell beer, wine, mixed beverages, or spirituous liquor until 4 a.m. on Saturday and Sunday only. The fee for the J permit is \$100.

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<sup>8</sup> R.C. 4301.35(E) and (F) and 4301.36(C) and (D).

<sup>9</sup> R.C. 4303.222 and conforming changes in R.C. 4303.15, 4303.171, and 4303.181.

The Division may issue a J permit to an A-1-A, A-1c, A-2, A-2f, A-3a, C class, or D class liquor permit holder (see “**Background**,” below).<sup>10</sup>

## **Outdoor refreshment area**

### **Background**

Under current law, a municipal corporation or township may create an outdoor refreshment area (also known as a DORA) that allows a person to purchase beer or intoxicating liquor from a designated liquor permit holder and walk around outdoors with that opened container of beer or intoxicating liquor in the area. Thus, the person is exempt from the law governing opened containers, which generally prohibits a person from carrying an opened container of beer or intoxicating liquor in public.

A municipal corporation or township may create a DORA with the approval of the legislative authority of the municipal corporation or township. Once the DORA is created, the Division must issue an outdoor refreshment area designation to liquor permit holders in the area that are in compliance with the liquor control laws and the terms of their particular permit. Current law establishes procedures and requirements for the review of the operation of a DORA and the dissolution of an area or portion of an area.<sup>11</sup>

### **Formation**

The bill eliminates the requirement that the legislative authority of a municipal corporation or township take action to approve the formation of a DORA. Rather, to create a DORA, the bill requires the chief executive officer of a municipal corporation or the fiscal officer of a township to do all of the following (after completion of these tasks, a DORA is created):

1. Ensure that a map or survey of the proposed DORA is made in sufficient detail to identify the boundaries of the area;
2. Create a general statement of the nature and types of establishments that will be located within the proposed DORA;
3. Ensure that the proposed DORA will encompass not fewer than two qualified permit holders;
4. Ensure that the uses of land within the proposed DORA are in accord with the master zoning plan or map of the municipal corporation or township; and
5. Ensure that the municipal corporation’s or township’s legislative authority has adopted a public health and safety ordinance or resolution required under existing law.

Generally, current law requires the chief executive officer or fiscal officer to submit the above information with an application to form a DORA to the legislative authority for

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<sup>10</sup> R.C. 4303.221 and conforming changes in R.C. 4303.15, 4303.171, and 4303.181.

<sup>11</sup> R.C. 4301.82.

approval.<sup>12</sup> The primary difference is that current law requires a minimum of four qualified liquor permit holders to be located in a DORA. As discussed above, the bill only requires two. A qualified liquor permit holder is a brewery, winery, bar, or restaurant (an A-1, A-1-A, A-1c, A-2, A-2f, or D class liquor permit holder – see “**Background**,” below).

### **Population and size restrictions**

The bill eliminates limitations on the number of DORAs that a municipal corporation or township may create within its borders, based on population. Under current law, the creation of a DORA is limited as follows:

1. A municipal corporation or township with more than 50,000 people may create up to two DORAs;
2. A municipal corporation or township with between 35,001 and 50,000 people may create up to one DORA.
3. A municipal corporation or township with 35,000 or less people may create one DORA if the proposed area will include at least four qualified liquor permit holders and is of 150 or fewer contiguous acres.<sup>13</sup>

In addition, the bill eliminates the acreage limitations on the area of a DORA. Current law limits a DORA to the following acres:

1. 320 contiguous acres or 0.5 square miles if a municipal corporation or township has a population of more than 35,000 people;
2. 150 contiguous acres if a municipal corporation or township has a population of 35,000 or less.<sup>14</sup>

### **Miscellaneous**

The bill makes the following additional changes to the law governing DORAs:

1. Eliminates a requirement that a municipal corporation’s or township’s legislative authority, prior to adopting public health and safety requirements, publish notice of its proposed action once a week for two consecutive weeks. Instead, the bill requires only one notice to be so published.
2. Prior to continuing or dissolving a DORA during its five-year review or dissolving a DORA at any other time, requires a municipal corporation’s or township’s legislative authority to notify the permit holders in the DORA of its proposed action. (The bill retains the requirement that the legislative authority publish this notice once a week for two

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<sup>12</sup> R.C. 4301.82(A) and (B).

<sup>13</sup> R.C. 4301.82(D).

<sup>14</sup> R.C. 4301.82(B)(1).

consecutive weeks in a newspaper of general circulation in the municipal corporation or township.)<sup>15</sup>

## **Food sales by brewpubs**

The bill exempts certain brewpubs (A-1-A liquor permit holders) from the requirement to obtain a retail food establishment or food service operation license from a board of health and operate as a restaurant. In lieu of obtaining one of those licenses, a brewpub may do either of the following:

1. Serve prepackaged meals and nonalcoholic beverages, as well as beer and intoxicating liquor, without a food service operation or retail food establishment license under licensure exemptions established by the bill. Thus, generally a board of health would not regulate the sales of food under this circumstance.<sup>16</sup>
2. Maintain a schedule with the owner or operator of a mobile retail food establishment or a mobile food service operation licensed by a board of health to serve food to the brewpub's customers. The schedule must be in writing and agreed to a week in advance. In addition, the brewpub must maintain the schedule for a minimum of one month.<sup>17</sup>

## **Alcohol consumption in restricted areas of airports**

The bill expands the area in which a person who buys beer or intoxicating liquor from a restaurant at an airport (D-5d liquor permit holder) may consume the beer or intoxicating liquor. It specifies that the expanded area includes the portion of the airport in which people are taking flights to and from the airport, provided:

1. The airport is a public airport;
2. The restaurant is located in the same area; and
3. The airport's governing body authorizes consumption in the area.

Current law only allows a person to buy and consume beer or intoxicating liquor at the restaurant premises.<sup>18</sup>

## **F-11 liquor permit**

The bill creates the F-11 liquor permit. The Division may issue an F-11 liquor permit to a nonprofit organization that has at least 250 members. Under the permit, the nonprofit organization may conduct an event if the event has all of the following characteristics:

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<sup>15</sup> R.C. 4301.82(E)(2), (H)(1), and (I).

<sup>16</sup> Sales of food by food service operations and retail food establishments are regulated by the Department of Health and the Department of Agriculture, respectively. Boards of health are generally responsible for implementing rules adopted by those departments. See R.C. Chapter 3717.

<sup>17</sup> R.C. 3717.22(A)(2), 3717.42(B)(15), and 4303.021(C).

<sup>18</sup> R.C. 4303.181(D).

1. The event is coordinated by the nonprofit organization and the nonprofit organization is responsible for the activities at the event;
2. One of the event's purposes is the introduction, showcasing, or promotion of craft beers manufactured in Ohio;
3. The event includes the sale of food for consumption on the premises where sold; and
4. The event features at least 20 craft breweries (A-1c liquor permit holders) as participants who are members of the nonprofit organization. The nonprofit organization may allow any number of large breweries (A-1 liquor permit holders) to participate in the event.<sup>19</sup>

### **F-11 permit holder duties and responsibilities**

At an event, an F-11 permit holder may sell beer that it has purchased from the breweries that are participating in the event. The F-11 permit holder may sell the beer in four-ounce samples or in containers up to 16 ounces for consumption on the premises where sold. Beer may be sold on the F-11 permit premises only where and when the sale of beer is otherwise permitted by law.

An F-11 permit holder must clearly define and sufficiently restrict the premises of the event to allow proper enforcement of the permit by state and local law enforcement officers. If an F-11 permit is issued for all or a portion of the same premises for which another class of liquor permit is issued, that permit holder's privileges are suspended in that portion of the premises in which the F-11 permit is in effect.

An F-11 permit holder is responsible, and is subject to penalties, for any violations of the liquor control laws that occur during the event. An F-11 permit holder cannot allow a brewery to participate in the event if the brewery or, if applicable, the bar or restaurant permit of that brewery is under suspension.

Notwithstanding the existing restrictions on the interrelationship between alcoholic beverage manufacturers, distributors, and retailers or any rule adopted by the Liquor Control Commission to the contrary, employees of a brewery or beer distributor, or employees or agents of a beer distributor, may assist an F-11 permit holder in serving beer at an event.<sup>20</sup>

### **Application and issuance**

An applicant for an F-11 permit must apply for the permit at least 30 days prior to the first day of the event. In the application, the applicant must list all of the breweries that will participate in the event. The fee for the F-11 permit is \$60 for each day of the event.

The Division must prepare and make available an F-11 permit application form. The Division may require applicants for the F-11 permit to provide information that is in addition to

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<sup>19</sup> R.C. 4303.2011(A) and (B).

<sup>20</sup> R.C. 4303.2011(C), (D), (H)(1) and (2), and (I).

that required by the bill, provided that the information is necessary for the administration of, the bill's provisions governing the F-11 permit. The Division cannot issue more than six F-11 permits to the same nonprofit organization in any one calendar year.

The Division may refuse to issue an F-11 permit to an applicant if both of the following apply:

1. The applicant has pleaded guilty to or has been convicted of violating the liquor control laws while operating under a previously issued F-11 permit;
2. The violation occurred within the two years preceding the filing of the new F-11 permit application.<sup>21</sup>

An F-11 permit is effective for up to 72 consecutive hours. However, for purposes of an exposition at the state fairgrounds, an F-11 permit is effective for the duration of the exposition. No sales of beer can take place under an F-11 permit after 1:00 a.m.<sup>22</sup>

## **Gifts of glassware**

The bill allows a manufacturer or supplier to provide glassware intended for the serving of beer to a permit holder authorized to sell beer for on-premises consumption. However, the manufacturer or supplier cannot annually provide more than four cases of the glassware (24 individual pieces of glassware per case) to the permit holder. In order to provide the glassware, the manufacturer or supplier must provide a receipt to the permit holder. Existing restrictions on the interrelationship between alcoholic beverage manufacturers, distributors, and retailers do not apply to the provision of glassware under the bill.<sup>23</sup>

A permit holder that receives glassware from a manufacturer or supplier must maintain a copy of the receipt provided by the manufacturer or supplier. The permit holder must retain the receipt for three years and make the receipt available for inspection during normal business hours.<sup>24</sup>

Glassware is a glass that has the brand name of a beer or the name of the beer's manufacturer or supplier permanently and prominently marked on it. A receipt is a record that contains specified information, including:

1. The name and address of both the recipient and provider of the glassware;
2. The date that the glassware is provided;
3. The amount, if any, that the manufacturer or supplier charged the permit holder for the glassware;
4. A description and the amount of glassware provided to the permit holder; and

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<sup>21</sup> R.C. 4303.2011(F), (G), and (H)(3).

<sup>22</sup> R.C. 4303.2011(E).

<sup>23</sup> R.C. 4301.24(A) and 4301.246(A)(1), (B), and (C).

<sup>24</sup> R.C. 4301.246(D).

5. The amount that the manufacturer or supplier paid to have the glassware manufactured.<sup>25</sup>

## Use of social media for advertising

Notwithstanding the existing restrictions on the interrelationship between alcoholic beverage manufacturers, distributors, and retailers, the bill allows a distributor, manufacturer, trade marketing professional, solicitor, or broker (sales person) to use free services provided by social media to advertise any of the following:

1. An on-premises brand promotion. An on-premises brand promotion is a promotion of a brand of beer or intoxicating liquor by a sales person of that brand at a retail permit premises.
2. Beer, wine, or spirituous liquor tastings sold in accordance with the liquor control laws; and
3. A product location communication. A product location communication is a listing or program that allows an individual to determine the availability of a specific brand of beer or intoxicating liquor at retail liquor permit holders or agency stores in a certain geographic area.

The bill also exempts a trade marketing professional, solicitor, or broker that advertises tasting samples on social media from the existing prohibition against that advertisement.

Under the bill, social media is a service, platform, or website where users communicate with one another free of charge and share media such as pictures, videos, music, and blogs. It includes the website of a sales person.<sup>26</sup> A broker is a company that solicits sales of alcoholic beverages on behalf of a manufacturer or supplier, but does not take possession of the alcoholic beverages in Ohio, except as provided in the liquor control laws. A solicitor is an individual who solicits liquor permit holders or the Division for sales of alcoholic beverages on behalf of a manufacturer, supplier, wholesale distributor, or broker, but does not take possession of the alcoholic beverages in Ohio, except as provided in the liquor control laws.<sup>27</sup>

A trade marketing professional is an individual who is an employee of, or is under contract with, a trade marketing company and who has successfully completed a training program on the liquor control laws, conflict management, and safety provisions in an emergency.<sup>28</sup>

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<sup>25</sup> R.C. 4301.246(A)(2) and (3).

<sup>26</sup> R.C. 4301.171(G)(1), 4301.24(A), and 4301.245(A)(2) to (4) and (B).

<sup>27</sup> R.C. 4301.245(A)(1), by reference to Ohio Administrative Code 4301-1-01(B).

<sup>28</sup> R.C. 4301.245(A)(5). A trade marketing company is a company that solicits the purchase of beer and intoxicating liquor and educates the public about beer and intoxicating liquor (R.C. 4301.171(A)(3)).

## F permit leasing agreements with manufacturers

The bill exempts from the existing restrictions on the interrelationship between alcoholic beverage manufacturers, distributors, and retailers a manufacturer's rental of property to an F class liquor permit holder. Specifically, a manufacturer may rent or lease property to an F class permit holder for purposes of an event for which the F class permit has been issued.<sup>29</sup>

## Severability

The bill provides that its provisions are severable.<sup>30</sup>

## Background

Below is a list of permits referenced above, along with a description of the authorized activity under the permit.

Class of liquor permit <sup>31</sup>	Authorized activity
A-1c	Craft brewery may sell its beer for on- or off-premises consumption.
A-1-A	Brewery, winery, or distillery may sell beer and any intoxicating liquor by glass or from a container; and a brewery may sell beer for off-premises consumption.
A-2	Winery may sell wine to personal consumers for on- or off-premises consumption and to wholesalers.
A-2f	Farm winery (same authorized activity as a winery, but winery grows grapes and other agricultural products).
A-3a	Micro-distillery (less than 100,000 gallons a year) may sell to personal consumers a specified amount of spirituous liquor.
C-1	Retail carryout store may sell beer for off-premises consumption.
C-2	Retail carryout store may sell wine and mixed beverages for off-premises consumption.
D-1	Restaurant or other specified entity may sell beer for on- or off-premises consumption.

<sup>29</sup> R.C. 4301.24(E)(5).

<sup>30</sup> Section 6.

<sup>31</sup> R.C. 4303.021 to 4303.183, 4303.19, 4303.20 to 4303.2010.



Class of liquor permit <sup>31</sup>	Authorized activity
D-2	Restaurant or other specified entity may sell wine or certain mixed beverages for on- or off-premises consumption.
D-3	Restaurant or other specified entity may sell spirituous liquor for on-premises consumption until 1:00 a.m.
D-3a	D-3 permit holder may sell until 2:30 a.m.
D-4	Club may sell beer or intoxicating liquor to members only for on-premises consumption, until 1:00 a.m.
D-4a	Allows a D-4 permit holder to sell until 2:30 a.m.
D-5	Restaurant or night club may sell beer or intoxicating liquor for on- or off-premises consumption until 2:30 a.m.
D-5a to D-5o	Various establishments may sell beer or intoxicating liquor for on- or off-premises consumption, depending on the circumstances until 1:00 a.m. or 2:30 a.m.
D-7	Restaurant or other specified entity in a resort area may sell beer or intoxicating liquor for on-premises consumption until 2:30 a.m.
E	Railroad car or airline may sell beer or intoxicating liquor for on-premises consumption.
F class	Organizations that operate festivals that have a short duration may sell beer or intoxicating liquor.

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## HISTORY

Action	Date
Introduced	05-26-20
Reported, H. Commerce & Labor	---