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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 160
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 160's Bill Analysis](#)

Version: As Passed by the Senate

Primary Sponsor: Rep. Ingram

Local Impact Statement Procedure Required: No

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Highlights

- The bill makes various changes to state law governing liquor permits and the consumption of alcoholic beverages. Altogether, the changes may result in a slight increase in liquor permit applications and issuances. Any new permit revenue would be deposited into the Undivided Liquor Permit Fund (Fund 7066).
- Proceeds from Fund 7066 are distributed to (1) the State Liquor Regulatory Fund (Fund 5LP0) receiving 45%, (2) local governments receiving 35%, and (3) the Statewide Treatment and Prevention Fund (Fund 4750) receiving 20%. This additional revenue would likely offset any additional costs to enforce provisions in the bill.
- The bill modifies allowable permits with respect to agency stores to allow onsite consumption of alcohol in some cases. This may result in some qualifying agency stores obtaining additional D permits.
- The bill expands the number of designated outdoor refreshment areas (DORAs) that may be created in a municipal corporation or township based on population.
- The bill expands permissible outdoor drinking areas during the declared COVID-19 emergency period, provided the permitted establishment provides notice, or if necessary, receives permission from a municipal corporation or township.
- The bill permits the sale of alcoholic ice cream under the A-5 permit, which may result in more permit applications and issuances.
- The bill clarifies small winery exemptions to the retail food establishment law made in H.B. 166 of the 133rd General Assembly. This provision has no fiscal impact.

Detailed Fiscal Analysis

Overview

The bill makes various changes to state law governing liquor permits. Altogether, the changes may result in a slight increase in liquor permit applications and issuances. Any new permit revenue would be deposited into the Undivided Liquor Permit Fund (Fund 7066). Proceeds from Fund 7066 are distributed to (1) the State Liquor Regulatory Fund (Fund 5LP0) receiving 45%, (2) local governments receiving 35%, and (3) the Statewide Treatment and Prevention Fund (Fund 4750) receiving 20%. This additional revenue would likely offset any additional costs to enforce provisions in the bill.

Agency store permits

The bill makes several modifications to the allowable permits with respect to the sales of alcohol at agency stores. These modifications impact the ability for on-premises sales and consumption at these agency stores. As a result, it is possible that a certain number of the 481 current agency stores may qualify under the bill and seek to obtain additional D permits to allow for onsite consumption of alcohol. The number or type of additional D permits is unclear. However, any additional permit revenue would be deposited into the Undivided Liquor Permit Fund (Fund 7066).

DORA expansion

The bill expands the number of designated outdoor refreshment areas (DORAs) in a municipality or township by specifying that if the population of the area is greater than 50,000, the maximum number increases from two to four, and if the population is between 35,000 and 50,000, the maximum number increases from one to two. This change would likely result in an increase in the number of DORAs formed. However, it is unclear as to whether there would be any additional fiscal impact resulting from this provision. Since the creation of DORAs are approved by municipalities and townships, any fiscal effect to these entities is permissive. There are currently 28 registered DORAs in Ohio.

Outdoor drinking areas during the COVID-19 emergency

The bill expands the areas in which retail permit holders may sell alcoholic beverages to include certain outdoor areas and the parking lots during the period of the COVID-19 emergency. If the retail permit holder, under this provision, has outdoor sales that are on public property, the permit holder must obtain written support of either the executive officer of a municipal corporation or the township trustees of a township located in an unincorporated area. If either of these authorities do not approve such a request, the permit holder may appeal the decision to the legislative authorities of either the municipal corporation or township. There could be some minimal costs for these political subdivisions related to this provision.

Alcoholic ice cream

Overall, the provisions of the bill pertaining to the sale of alcoholic ice cream appear to have little direct fiscal impact on the state or political subdivisions. However, by easing current restrictions on the sale of ice cream containing alcohol, the bill could lead to some few additional ice cream manufacturers applying for the A-5 liquor permit that is required for producing ice cream with alcohol. As of this writing, there are two ice cream manufacturers

with pending A-5 permit applications. The A-5 permit fee is \$1,000 per manufacturing plant. The proceeds from these permits are deposited into the Undivided Liquor Permits Fund (Fund 7066) and subsequently distributed to (1) the Division of Liquor Control in the Department of Commerce for regulatory oversight, (2) the general funds of local governments where permit premises are located, and (3) the Department of Mental Health and Addiction Services for alcohol addiction programming. Specifically, the bill allows a manufacturer of alcoholic ice cream to ship alcoholic ice cream to a personal consumer via an H liquor permit holder (a shipper permitted to transport beer, intoxicating liquor, and alcohol) and sell alcoholic ice cream to retail liquor permit holders for resale to personal consumers. The bill further removes any restrictions on the amount of alcoholic ice cream that a personal consumer may purchase on any given day.

Small winery exemption

The small winery exemptions in the bill do not appear to have any significant fiscal impact. The bill seeks to clarify exemptions to retail food establishment licensure for certain wineries. The exemptions described below were first included in H.B. 166 of the 133rd General Assembly, the main operating budget. The bill clarifies these exemptions by specifying that wine does not qualify as a prepackaged food for purposes of these exemptions. Therefore, any such wineries impacted by the bill would not be required to obtain a retail food establishment license from a local health department. These licenses are administered by local health departments, and range from \$100 to \$1,000 depending on the size of the establishment being licensed. Presumably, without the clarifications contained in the bill, certain wineries would be required to obtain such a license. There are currently 280 wineries operating in Ohio, it is unclear how many would qualify for the exemption provided in the bill.

Under continuing law, retail food establishments must be licensed by a board of health with oversight by the Director of Agriculture. Current law exempts a small winery (a winery with an A-2 or A-2f liquor permit) that annually produces less than 10,000 gallons of wine from licensure as a retail food establishment if (1) the winery serves unopened commercially prepackaged food (including alcohol) without direct human contact, and (2) sales of the food do not exceed 5% of total gross receipts for the previous calendar year. The bill further clarifies that for purposes of this 5% threshold, commercially prepackaged food does not include wine, and that the establishment display a notice to inform guests that the establishment is not required to be licensed as a retail food establishment.