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135th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 86's Bill Analysis

Version: In Senate General Government

Primary Sponsor: Rep. LaRe

Local Impact Statement Procedure Required: No

LBO staff

Revised

Highlights

Adult-use marijuana

Excise tax revenue

- The bill increases the current excise tax on adult-use marijuana from 10% to 15%, and imposes a new 15% excise tax on a licensed cultivator's marijuana receipts. Annual tax revenue due to this change is estimated to be approximately $248.6 million to $290.8 million higher under the bill than under current law once the adult-use marijuana market completely matures, likely no earlier than FY 2026.
- Current law was enacted by State Issue 2, which was approved by Ohio voters on November 7, 2023, and is effective December 7, 2023. Since current law has not yet been implemented, there is considerable uncertainty about the future adult-use marijuana market, including quantity and pricing, which will determine actual revenues under both current law and the bill.
- The bill changes the disposition of excise tax revenue, including allocating at least 45% to the GRF. See tables 1 and 2 below for details of the disposition under current law and the bill.

Department of Commerce – Division of Marijuana Control

- The bill integrates regulation of adult-use marijuana into a new Division of Marijuana Control in the Department of Commerce. Additional annual fee revenue collected from cultivators, processors, and dispensaries will presumably be deposited into the Medical Marijuana Control Fund (Fund 5SY0). These fees are to be established by rule.

Micro-distilleries

- The bill allows micro-distilleries holding an active A-3a permit before the bill's effective date to produce any amount of spirituous liquor in a year rather than the 100,000 gallon annual limit under current law.
- Because these permits are assessed on a per 50 gallon barrel rate, the Department of Commerce's Division of Liquor Control could collect additional permit revenue if production among active A-3a permit holders increases.
- Liquor permit revenues are deposited into the Undivided Liquor Permit Fund (Fund 7066), which collects and distributes liquor permit fees to the State Liquor Regulatory Fund (Fund 5LP0), municipalities and townships, and the Statewide Treatment and Prevention Fund (Fund 4750).

Detailed Analysis

Adult-use marijuana

Excise tax revenue

The bill modifies the current excise tax on adult-use marijuana, marijuana sold legally in Ohio excluding medical marijuana, by doing the following:

1. Increasing the excise tax on the retail sale of adult-use marijuana from 10% to 15%.
2. Levying a 15% excise tax on a marijuana cultivator's adult-use marijuana receipts.[1]

The current 10% excise tax on the retail sale of adult-use marijuana was included in State Issue 2, which was approved by Ohio voters on November 7, 2023, and is effective December 7, 2023. Prior to this date, the retail sale of adult-use marijuana was not legal in Ohio. The timing of future revenue under both current law and the bill is uncertain, as it depends on completion of all implementation aspects. Moreover, the bill prohibits adult-use marijuana sales for 12 months after the effective date of the bill. The annual estimates given in tables 1 and 2 assume the marketplace has matured. That is, the program has been fully implemented. This is not likely to occur until FY 2026 at the earliest. Only a small portion of the annual revenue estimates may be collected in FY 2025. Once the market has matured, the current law 10% excise tax on retail sales is estimated to provide annual revenue to the state of approximately $175.9 million to $205.8 million. LBO estimates the bill's 15% excise tax on retail sales combined with the bill's 15% excise tax on cultivator receipts will yield between $424.5 million and $496.6 million each year once the market matures. That is, an annual increase of approximately $248.6 million to $290.8 million as compared to current law.

The bill also applies the 15% retail excise tax to illicit marijuana sales, but LBO anticipates that provision will be an infrequent source of state revenue. In fact, the estimates assume most marijuana consumption migrates from the illicit market to the new legal framework.

[1] The bill defines "marijuana receipts" as the total amount received by a marijuana cultivator, without deduction for the cost of goods sold, taxes paid, or other expenses incurred, from the sale or other disposition of adult-use marijuana or marijuana cultivation products to any other person.

Methodology

The estimates are based on data and research on adult-use marijuana in other states, as well as various assumptions about the Ohio marketplace. The marijuana consumption of Ohio residents was calculated using the estimated number of Ohioans aged 21 and older who used marijuana in the past 12 months based on data from the National Survey of Drug Use and Health (NSDUH),[2] and the prevalence and frequency of use of marijuana. The NSDUH information suggests about 1.75 million users in Ohio, and their overall demand is derived from a methodology in a report prepared for the Colorado Department of Revenue.[3] LBO staff further assumed nonresidents' marijuana consumption from Ohio retail dispensaries would be about 5% of total residents' consumption.

Given the potency restrictions for adult-use marijuana, LBO assumed that the average retail price in Ohio would be $230 per ounce, which is generally lower than average retail prices of more potent marijuana in Michigan and Illinois. The resulting retail marketplace would range between $1.76 billion and $2.06 billion per year and a 15% excise tax on retail sales would raise between $264 million and $309 million annually.

The average wholesale price in Ohio was estimated to be $140 per ounce, which suggests retailers would impose a mark-up of 65%. The wholesale price assumption is subject to considerable uncertainty because the bill specifies that the number of cultivators is to be determined by the Department of Commerce. If the supply is limited, it puts upward pressure on wholesaler prices. Conversely, a supply glut would exert downward pressure on wholesale prices. This analysis assumes the 15% excise tax paid by licensed cultivators would raise between $161 million and $188 million annually.

Revenue disposition

Current law

Current law allocates revenue from the excise tax into the Adult Use Tax Fund and provides for transfers into new funds as shown in Table 1.

Table 1. Estimated Annual Excise Tax Revenue in a Mature Marketplace Under Current Law		
Fund	Distribution %	Estimated Annual Revenue (in millions)
Cannabis Social Equity and Jobs Fund	36%	$63.3-$74.1
Host Community Cannabis Fund	36%	$63.3-$74.1

[2] The number of legal Ohio marijuana users in the past 12 months is estimated primarily based on the latest NSDUH data, 2021 National Survey on Drug Use and Health (NSDUH). A downward adjustment was made using census information to reduce NSDUH data for the number of persons aged 18 through 20 who are not legally able to purchase marijuana under the bill.

[3] *Market Size and Demand for Marijuana in Colorado, 2014, Table 1.* The report is available at: https://media.focusonthefamily.com/fotf/pdf/channels/social-issues/market-size-and-demand-study-july92014.pdf.

Table 1. Estimated Annual Excise Tax Revenue in a Mature Marketplace Under Current Law		
Fund	Distribution %	Estimated Annual Revenue (in millions)
Substance Abuse and Addiction Fund	25%	$44.0-$51.4
Division of Cannabis Control and Tax Commissioner Fund	3%	$5.3-$6.2
	Total	**$175.9-$205.8**

Under current law, the Department of Development is to use revenue deposited into the Cannabis Social Equity and Jobs Fund to establish and administer a business assistance program. Revenue deposited into the Host Community Cannabis Fund, under current law, is to benefit municipalities and townships that have adult-use dispensaries. Current law requires the Ohio Department of Mental Health and Addiction Services (OhioMHAS) to use the revenue in the Substance Abuse and Addiction Fund for efforts to alleviate substance and opiate abuse and for related research. Finally, current law requires revenue deposited into the Division of Cannabis Control and Tax Commissioner Fund to support the operations of the Division and costs of administering the tax.

The bill

The bill repeals these funds and their required uses and instead requires that all amounts collected from the excise taxes levied on adult-use marijuana be deposited in the newly created Marijuana Receipts Fund. The bill allocates net proceeds (i.e., after issuing applicable tax refunds) through transfers made by the Office of Budget and Management (OBM) Director to the GRF and three other funds as shown in Table 2. Distributions into the funds other than the GRF are limited each year to an amount as listed in the table minus the fund's year-end balance. Any excess after reaching that limit is deposited into the GRF. The estimates have each of those funds reaching their limits.

Table 2. Estimated Annual Excise Tax Revenue in a Mature Marketplace Under the Bill		
Fund	Distribution %	Estimated Annual Revenue (in millions)
GRF	45%, plus amounts in excess of other fund limits	$347.0-$419.1
Law Enforcement Training Fund	30%, up to $40 million	$40.0
Marijuana Substance Abuse, Treatment, and Prevention Fund	15%, up to $25 million	$25.0
Safe Driver Training Fund	10%, up to $12.5 million	$12.5
	Total	**$424.5-$496.6**

The bill requires the Department of Public Safety (DPS) to use the revenue deposited into the Law Enforcement Training Fund to pay for the training of peace officers and troopers that is required under state law[4] and the revenue deposited into the Safe Driver Training Fund to support DPS's efforts in providing safe driver notifications, safe driver education, and public safety announcements, including information on the dangers of driving while under the influence of marijuana.

The bill requires to use the revenue deposited into the Marijuana Substance Abuse, Treatment, and Prevention Fund to pay for substance abuse treatment, prevention, and education, using peer-reviewed and evidence-based methods.

State agency expenditures

State agencies will incur additional expenditures to administer the newly enacted marijuana provisions under both current law and the bill. The bill incurs a fiscal effect for state agency expenditures to the extent its requirements differ from current law. The notable provisions are discussed in the following sections.

Department of Taxation

The bill requires each marijuana cultivator to register with the Tax Commissioner no later than 30 days after first receiving marijuana receipts. The bill specifies that if a marijuana cultivator does not do so within the specified timeframe an additional fee is to be imposed in the amount of $100 per month, but not to exceed $1,000. The Commissioner may abate the additional fee for a good cause. The bill requires a registered marijuana cultivator to provide a notice to the Commissioner when certain events occur, such as when its license expires or is revoked.

The bill requires every taxpayer, no later than the tenth day of the second month after the end of each calendar quarter, to file a return with the Commissioner for the preceding calendar quarter showing any information the Commissioner finds necessary for the proper administration of the bill together with remittance of the tax due. The bill specifies a penalty, in an amount not exceeding the greater of $50 or 10% of the tax required to be paid for the tax period, for a taxpayer that fails to file such tax return or remit the tax. The bill also specifies other penalties and interest under certain circumstances. The bill allows the Commissioner to collect any penalty or interest imposed by the bill in the same manner as the tax imposed under the current state sales and use tax provisions. The bill also specifies requirements and procedures related to assessments, refunds, and administration of the tax. The bill allows the Commissioner to adopt necessary rules to implement certain bill provisions.

Department of Commerce – Division of Marijuana Control

The bill eliminates the regulatory structure in current law and integrates adult-use marijuana regulation and oversight into a new Division of Marijuana Control, which oversees adult use as well as the existing medical marijuana program. The Division of Marijuana Control will assume responsibility and incur the costs for regulation and oversight of adult-use marijuana. Because the bill merges oversight of adult use with the ongoing medical marijuana program, the additional costs the new division will incur under the bill could well be less than the cost estimates

[4] R.C. 109.803.

performed by the Office of Budget and Management (OBM) for current law, which instead created a new Division of Cannabis Control.

Under the Tax Yield and Public Expenditure Analysis that OBM and the Department of Taxation prepared for State Issue 2 (PDF), available on the Secretary of State's website: ohiosos.gov, OBM estimated that the total operating costs incurred by the new Division of Cannabis Control would grow as the adult-use industry matures, from $2.4 million in FY 2024 to $11.3 million by FY 2027. This assumed that the Division of Cannabis Control would need to hire 133 full-time employees within four years, with a total payroll amounting to approximately $9.0 million by FY 2027. OBM's analysis also estimated costs of $350,000 annually for additional office space, start-up costs for a new regulatory database and $200,000 annually to operate and maintain it, and approximately $258,000 for equipment, software licenses, and other operating costs. OBM also anticipated expenditures of $1.5 million annually in legal and litigation costs.

Funding

Under current law, the Division of Cannabis Control would have been funded by a portion of a 3% distribution from the adult-use tax (see above). By incorporating adult-use marijuana into the existing regulatory structure for medical marijuana, new annual fee revenue will be generated to offset additional expenditures. The fees that apply to adult-use marijuana will be established by rule, just as with medical marijuana as is the case currently. The table below displays the current licensing fee structure under the Department of Commerce's Medical Marijuana Control Program. These fees are established by administrative code. Under the bill, the Division of Marijuana Control would presumably adjust the fees to meet its operating costs. Additionally, the bill sets a maximum of 230 dispensary licenses that may be issued.

Table 3. Division of Marijuana Control Fees

License Type	Application	Initial (Certificate of Operation)	License Renewal
Cultivator Level I*	$20,000	$180,000	$200,000
Cultivator Level II*	$2,000	$18,000	$20,000
Processor*	$10,000	$90,000	$100,000
Testing*	$2,000	$18,000	$20,000
Dispensary**	$5,000	$70,000	$70,000

*Annual renewal

**Biennial renewal

Additionally, there is a $5,000 fee if a dispensary changes ownership, relocates, or performs major modifications or renovations to the building. Dispensary employees, patients eligible to use medical marijuana, and their caregivers must register with the Division and pay a corresponding fee to apply or renew. These fees range from $25 to $500. An advertising approval fee of $100 per advertisement is also assessed. Fee revenue is deposited into the Medical Marijuana Control Fund (Fund 5SY0).

Attorney General

Under continuing law, the Attorney General (AGO) Collections Enforcement Section is responsible for collecting all delinquent debt owed to close to 600 state agencies, institutions, universities, and other government entities for taxes, fines, penalties, service fees, loans, and any other debt due. The Attorney General may retain up to 11% of all amounts collected which is credited to the Claims Fund (Fund 4190). Because the bill imposes a new excise tax on cultivators and increases the excise tax rate on retail sales, the revenue to AGO could increase above current law assumptions.

Administrators as well as owners, officers, or board members of entities seeking a license from the Division of Marijuana Control are required to complete a criminal records check as part of the application process. Base fees of the state-only and Federal Bureau of Investigation (FBI) background checks are $22 and $25.25, respectively. The $22 state-only background check fee and a portion of the FBI background check fee are deposited into the state treasury to the credit of the Attorney General's General Reimbursement Fund (Fund 1060). The remaining portion of the FBI background check fee is sent to the FBI. Background checks may also be obtained by county sheriff's offices or other Webcheck locations, which may charge additional fees.

OIU investigative costs

The Ohio Investigative Unit (OIU), which is housed within the Department of Public Safety, enforces Ohio's alcohol, tobacco, and food stamp fraud laws. OIU agents are responsible for investigating violations relating to the liquor control act as well as criminal activity in or around liquor permit locations (bars, restaurants, carryouts, etc.) and illegal establishments. Under the bill, OIU will have investigative authority related to adult-use and medical marijuana in conjunction with the Department of Commerce's Division of Marijuana Control. The extent to which their services will be utilized and whether current staffing levels will be sufficient is unknown.

Criminal offenses

Fiscal effect of criminal offenses

The legalization of adult-use marijuana, under both current law and the bill, is expected to reduce the number of marijuana offenses to some degree, especially minor misdemeanor offenses. The bill creates new offenses, though, which may offset some of these savings. Most significantly, incarceration costs may increase due to the penalties associated with passenger use of marijuana in a vehicle, with penalties potentially reaching a felony of the third degree with a mandatory prison term of one, two, three, four, or five years. These changes will result in a complicated mix of potential outcomes, largely impacting the Department of Rehabilitation and Correction (DRC), local courts, jails, and probation departments. It is possible that some of these costs would be partially offset by the penalties and fines that are collected. However, the net impact is indeterminate and would vary from jurisdiction to jurisdiction.

As an example, for new cases generated by the prohibition against the smoking, combustion, and vaporizing of marijuana as a passenger in a vehicle, most costs would likely be borne by the local criminal justice systems, including jails. Based on an average daily jail cost of

$90.25 per bed,[5] an offender sentenced to three days in a county jail costs $271, an offender sentenced to ten days costs $903; 30 days, $2,708; six months, $16,471; and one year, $32,941. This cost is offset somewhat by the collection of mandatory fines of which some portion is likely to go uncollected due to an offender's indigence or inability to pay.

For those offenders sanctioned with a felony level charge, costs would be split between the local jurisdiction (charging, defense/prosecution and adjudication) and the state (incarceration or supervision). For FY 2023, DRC reported an average annual cost per inmate of $37,624, or $103.08 per day. However, when considering only the marginal cost increase, the cost to house an individual inmate was $11.98 per day, or $4,373 per year. Marginal costs are based on additional medical and mental health costs as well as food and clothing. It does not include additional security, facility, or administrative costs which have already been factored into the overall operating costs of DRC. Felony offenses under the bill with mandatory prison terms of up to five years with up to one additional year could result in additional costs from $26,238 (marginal cost) to up to $225,744 (institutional cost) per offender. The number of offenders that could be charged and ultimately sentenced under the bill's new prohibitions is indeterminate and would likely vary from jurisdiction to jurisdiction.

Detailed below are the various new criminal prohibitions included in the bill and proposed penalty structure for each. For context, Table 4 illustrates the general penalty structure for misdemeanors and felonies under current law. However, a number of the new prohibitions feature unique sanctions.

Table 4. Felony and Misdemeanor Sentences and Fines for Offenses Generally

Offense Level	Fine	Term of Incarceration
Felony 1st degree*	Up to $20,000	3, 4, 5, 6, 7, 8, 9, 10, or 11 years indefinite prison term
Felony 2nd degree*	Up to $15,000	2, 3, 4, 5, 6, 7, or 8 years indefinite prison term
Felony 3rd degree	Up to $10,000	9, 12, 18, 24, 30, or 36 months definite prison term
Felony 4th Degree	Up to $5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months definite prison term
Felony 5th degree	Up to $2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term
Misdemeanor 1st degree	Up to $1,000	Jail, not more than 180 days
Misdemeanor 2nd degree	Up to $750	Jail, not more than 90 days
Misdemeanor 3rd degree	Up to $500	Jail, not more than 60 days

[5] Based on daily jail cost per bed as reported to DRC in 2023.

Table 4. Felony and Misdemeanor Sentences and Fines for Offenses Generally		
Offense Level	**Fine**	**Term of Incarceration**
Misdemeanor 4th degree	Up to $250	Jail, not more than 30 days
Minor misdemeanor	Up to $150	Citation issued; No jail

*The sentencing court shall impose a minimum sentence for first and second degree felony offenses committed after March 22, 2019 (definite sentences were previously imposed). The court shall specify a maximum sentence that is 50% greater than the minimum sentence. The court may, after a hearing, reduce the minimum sentence by 5%-15% upon recommendation of the Department of Rehabilitation and Correction.

Marijuana use in a vehicle (while a passenger)

The bill establishes a new prohibition against the smoking, combustion, and vaporizing of marijuana as a passenger in a vehicle, streetcar, trackless trolley, watercraft, or aircraft. Current OVI laws pertaining to prohibitions against smoking, combustion, and vaporizing marijuana as the operator of a vehicle, streetcar, trackless trolley, watercraft, or aircraft remain unchanged. Table 5 below shows the penalties for violations of the new prohibition which elevate depending on the number of previous violations from a first degree misdemeanor to third degree felony with specified minimum terms of incarcerations, mandatory fines, and license suspensions based on the level of offense. The lookback period for subsequent offenses is ten years.

The bill's license suspension provisions may increase the total number of driver's license suspensions administered annually by the Bureau of Motor Vehicles (BMV). The cost of administering such suspensions will be at least partially offset by the collection of a $40 fee required under existing law to reinstate a license suspended under the bill.[6] The magnitude of any increase in driver's license suspensions or subsequent reinstatement fee revenue generated annually will ultimately depend on the number of violations that result in a license suspension.

Table 5. Punishments for Violations of the Prohibition Against Certain Uses of Marijuana by a Passenger in a Vehicle, Streetcar, Trackless Trolley, Watercraft, or Aircraft					
Violation	**Level of Offense***	**Mandatory Incarceration****	**Additional Permitted Incarceration*****	**Mandatory Fine Range**	**Length of License Suspension**
First violation	M-1	3 days in jail	6 months	$375-$1,075	Not to exceed 1 year
One prior violation	M-1	10 days in jail	6 months	$525-$1,625	3 months to 2 years

[6] That amount, which applies to suspensions of at least 90 days, is forwarded to the state treasury and deposited as follows: $30 to the Public Safety – Highway Purposes Fund (Fund 5TM0) and $10 to the Indigent Defense Support Fund (Fund 5DY0) (R.C. 4507.45).

Table 5. Punishments for Violations of the Prohibition Against Certain Uses of Marijuana by a Passenger in a Vehicle, Streetcar, Trackless Trolley, Watercraft, or Aircraft					
Violation	**Level of Offense***	**Mandatory Incarceration****	**Additional Permitted Incarceration*****	**Mandatory Fine Range**	**Length of License Suspension**
Two prior violations	M-1	30 days in jail	1 year	$850-$2,750	6 months to 3 years
Three prior violations	F-4	Prison term of 1, 2, 3, 4, or 5 years	1 year	$1,350-$10,500	1 to 5 years
A prior felony violation	F-3	Prison term of 1, 2, 3, 4, or 5 years	1 year	$1,350-$10,500	2 to 10 years

*M is used to denote a misdemeanor offense; F is used to denote a felony offense.

**All terms are consecutive.

***Permitted terms are not to exceed the amount of time listed and misdemeanor offenses are inclusive of the mandatory term.

Transportation of marijuana or marijuana paraphernalia in a vehicle

The bill generally prohibits the transportation of marijuana or marijuana paraphernalia in a motor vehicle unless the marijuana or paraphernalia are in the original, unopened packaging and stored in the trunk of the vehicle, or other allowable space. A violation of either prohibition is a minor misdemeanor offense (see Table 4).

Personal use and possession offenses

The bill regulates personal use of marijuana by placing restrictions on use and possession. The bill prohibits the smoking, combustion, and vaporization of marijuana in specified public places (minor misdemeanor), limits the quantities that one may possess, and prohibits a person under 21 years of age from purchasing, using, or possessing marijuana (minor misdemeanor).

Underage offenses

In addition to the prohibition against purchasing, using, or possessing marijuana by a person under 21, the bill also prohibits a person under 21 from purchasing or obtaining marijuana in a fraudulent manner.

The table below shows the level of offense, mandatory range, and length of potential license suspension for those guilty of using a fake or falsified identification to purchase or obtain adult-use marijuana from a licensed dispensary under 21. Under the bill, a court may sentence an offender to community service in lieu of suspending the offender’s license or temporary instruction permit. All fines are in addition to other sanctions applicable for a misdemeanor offense under current law.

Table 6. Punishments for Violations of the Prohibition Against Using a Fake or Falsified Identification to Obtain Marijuana by a Person Under 21			
Violation	**Level of Offense***	**Mandatory Fine Range**	**Length of License Suspension****
First violation	M-1	$250-$1,000	None
One prior violation	M-1	$500-$1,000	Not to exceed 1 year
Two prior violations	M-1	$500-$1,000	3 months to 2 years

*M is used to denote a misdemeanor offense.

**Includes a temporary instruction permit, probationary driver's license, or driver's license.

Industry-related offenses

The bill creates a number of prohibitions related to the adult-use marijuana industry. Those include prohibitions against:

- Giving, selling, or distributing adult-use marijuana to a person under 21, a first degree misdemeanor punishable as described in Table 4 and which additionally requires the immediate revocation of a license issued by the Division of Marijuana Control;
- Growing, cultivating, processing, selling, dispensing, or conducting other activities that otherwise require a license or registration under the bill, a violation of which is an offense of trafficking marijuana or illegal cultivation of marijuana as applicable; and
- Selling more than the possession limits to a single customer in a single day, a violation of which is an offense of trafficking marijuana

Penalties for trafficking in marijuana under current law range from a fifth degree felony to a first degree felony under certain circumstances. Penalties for the illegal cultivation of marijuana under current law range from a minor misdemeanor to a first degree felony under certain circumstances. In both cases, the offense level is dependent on the amount of marijuana involved.

Unemployment benefits

The bill does not require an employer to permit or accommodate an employee's use, possession, or distribution of marijuana; prohibit an employer from refusing to hire, discharging, or otherwise taking adverse employment action against a person because of that person's use, possession, or distribution of marijuana; or permit a person to take action against an employer for taking certain actions related to marijuana. If a person is discharged from employment for using marijuana, the person will be considered to have been discharged for just cause, if the use of marijuana violates the employer's marijuana regulating policies, zero-tolerance policy, or other formal program or policy regulating the use of marijuana. The person discharged for just cause will not be eligible to serve a waiting period or to receive unemployment benefits.

The Ohio Department of Job and Family Services administers the state's Unemployment Compensation system. Ohio employers fund benefits by paying contributions to Ohio's

Unemployment Compensation Fund (most private sector employers) or reimbursing that fund for benefits paid (public sector and certain nonprofit employers).

Department of Commerce – micro-distilleries

The bill increases the amount of spirituous liquor that a micro-distillery (an active A-3a permit holder) may annually manufacture from less than 100,000 gallons of spirituous liquor to any amount of spirituous liquor. The bill applies this change only to those holding an A-3a permit before the effective date of the bill. The 100,000 gallon limit would remain for any micro-distillery issued an A-3a permit after the effective date of the bill. If this change leads to higher production volumes, the Division of Liquor Control might collect more permit revenue, as explained in more detail below.

As of the most recent liquor permit data, there are 62 active A-3a permits statewide. The current annual permit fee for these permits is $2 per 50 gallon barrel, depending on the number of barrels produced by the micro-distillery.[7] If the current qualifying A-3a permit holders produce more spirituous liquor after the 100,000 gallon cap is removed, the Ohio Division of Liquor Control (ODLC) might conceivably collect additional permit revenue. Note, however, that most of the currently licensed micro-distilleries are well below the current 100,000 gallon limit. Given these circumstances, any additional permit revenue attributable to micro-distillery production in excess of 100,000 gallons is likely to be minimal.

Liquor permit fee revenues are deposited into the Undivided Liquor Permit Fund (Fund 7066). Of the money deposited into Fund 7066, 45% is distributed to the State Liquor Regulatory Fund (Fund 5LP0), 35% is distributed to the municipal corporations and townships in which liquor premises are located, and 20% is deposited in the Statewide Treatment and Prevention Fund (Fund 4750).

The bill makes two other changes that do not have any fiscal effects. The first of these is a provision requiring that tasting samples of spirituous liquor provided by authorized individuals be offered to consumers at state liquor agencies free of charge rather than a minimum of 50¢ per sample as under current law. Finally, the bill eliminates a prohibition on adding grains of paradise, a type of flavorful and pleasing aromatic spice, to manufactured formulations of spirituous liquor.

FNHB0086S1-135/zg

[7] com.ohio.gov/divisions-and-programs/liquor-control/new-permit-info/guides-and-resources/permit-class-types.