



Ohio Legislative Service Commission

Final Analysis

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Sub. H.B. 342

131st General Assembly
(As Passed by the General Assembly)

Reps. Young, Becker, Grossman, Hackett, Schaffer, Vitale, Brown, Blessing, Anielski, Antonio, Arndt, Baker, Boose, Brenner, Buchy, Celebrezze, Cera, Clyde, Dovilla, Fedor, Hambley, Hill, Lepore-Hagan, Manning, S. O'Brien, Patterson, Phillips, Ramos, Retherford, Rogers, Romanchuk, Sears, Sheehy, Sprague, Strahorn, Thompson

Sens. Uecker, Balderson, Beagle, Coley, Eklund, Faber, Hite, Hughes, Jordan, Obhof, Schiavoni, Seitz, Tavares, Thomas, Yuko

Effective date: September 28, 2016

ACT SUMMARY

Ohio Farm Winery Permit

- Creates the A-2f liquor permit, designates it as the "Ohio Farm Winery Permit," and authorizes the Division of Liquor Control to issue the permit to a wine manufacturer that:
 - Grows grapes, fruit, or other agricultural products on property owned by the manufacturer that is classified as land devoted exclusively to agricultural use; and
 - Uses the grapes, fruit, or products to produce wine.
- Authorizes the holder of an A-2f permit to sell wine directly to a consumer on the premises where the wine is manufactured, but otherwise prohibits the holder from selling wine directly to a consumer or to a retailer unless the holder obtains additional specified liquor permits.
- Prescribes the fee for the A-2f permit at \$76 for each plant to which the permit is issued.

* This version updates the effective date.

Wine manufacturer permit

- Allows an A-2 permit holder (wine manufacturer) to use agricultural products (for example, honey), in addition to grapes and other fruit, to manufacture wine.

D-5l liquor permit population requirements

- Authorizes the Division to issue a D-5l liquor permit (sales of beer and intoxicating liquor for on- and off-premises consumption) to a premises that is located in a municipal corporation that is wholly within the geographic boundaries of a township, provided that a specified population density applies.

CONTENT AND OPERATION

Ohio Farm Winery Permit

The act creates the A-2f liquor permit, designates it as the "Ohio Farm Winery Permit," and authorizes the Division of Liquor Control to issue it to a manufacturer to do all of the following:

- (1) Manufacture wine from grapes, fruit, or other agricultural products;
- (2) Import and purchase wine in bond for blending purposes. The total amount of wine imported for blending purposes during any year covered by the permit cannot exceed 40% of all the wine manufactured and imported.
- (3) Manufacture, purchase, and import brandy for fortifying purposes; and
- (4) Sell products produced either in glass or container for consumption on the premises where manufactured, in sealed containers for consumption off the premises, and to wholesale permit holders under rules adopted by the Division.¹

Continuing law generally allows a wine manufacturer with an A-2 liquor permit to do all four of those activities.² However, the new A-2f permit differs from the A-2 permit in that the Division may issue an A-2f permit to a manufacturer only if both of the following apply:

¹ R.C. 4303.031(A) and (E).

² R.C. 4303.03.



(1) The manufacturer grows grapes, fruit, or other agricultural products on property owned by the manufacturer that is classified as land devoted exclusively to agricultural use; and³

(2) The manufacturer processes the grapes, fruit, or other agricultural products into wine and sells the wine as authorized under the act's provisions.⁴

Like the A-2 permit, the act prohibits the holder of an A-2f permit from selling wine directly to a retailer. In order to make wine sales to a retailer, the manufacturer must obtain a B-2a liquor permit (authorizes wine sales to retailers under specified circumstances) or make the sale directly to a B-2 or B-5 liquor permit holder (wholesale distribution of wine) for subsequent resale to a retailer.⁵ Also, like the A-2 permit, the act prohibits the holder of an A-2f permit from selling directly to a consumer unless the product is sold on the manufacturing premises in accordance with the act's provisions. In order to make direct sales to a consumer off the premises where the wine is manufactured, the A-2f permit holder must obtain an S liquor permit (direct shipment of beer and wine).⁶

The act sets the fee for the A-2f permit at \$76 for each plant to which the permit is issued, which is identical to the fee for the A-2 permit.⁷

Wine manufacturer permit

Under law generally retained by the act, an A-2 permit holder may manufacture wine from grapes or other fruit. The act also allows an A-2 permit holder to manufacture wine from other agricultural products such as honey.⁸ It appears that, in practice, the Division of Liquor Control authorized A-2 permit holders to manufacture wine from other agricultural products prior to the act's effective date.

D-5l liquor permit population requirements

The act modifies the population requirements for issuance of a D-5l liquor permit. A D-5l permit generally authorizes the holder to sell beer and intoxicating

³ See R.C. 5713.31, not in the act.

⁴ R.C. 4303.031(B).

⁵ R.C. 4303.031(C)(1).

⁶ R.C. 4303.031(C)(2).

⁷ R.C. 4303.031(D).

⁸ R.C. 4303.03(A).



liquor at retail by the individual drink for on-premises consumption and to sell certain types of beer and intoxicating liquor for off-premises consumption in specified quantities. Under law generally unchanged by the act, a D-5l permit may be issued to a premises to which all of the following apply:

(1) The premises has gross annual receipts from the sale of food and meals that constitute at least 75% of its total gross annual receipts;

(2) The premises is located within a revitalization district. A revitalization district may be created under continuing law and consists of a bounded area that includes a combination of retail, entertainment, sporting, or other cultural establishments.⁹

(3) The premises is located in a municipal corporation or township in which the number of D-5 liquor permits issued equals or exceeds the quota limit for those permits that may be issued in the municipal corporation or township; and

(4) The premises meets any of the following qualifications:

--It is located in a county with a population of 125,000 or less according to the population estimates certified by the Development Services Agency (DSA) for calendar year 2006.

--It is located in the municipal corporation that has the largest population in a county, if the municipal corporation is wholly located in a county that has a population between 215,000 and 225,000 according to the population estimates certified by DSA for calendar year 2006.

--It is located in the municipal corporation that has the largest population in a county, if the municipal corporation is wholly located in a county that has a population between 140,000 and 141,000 according to the population estimates certified by DSA for calendar year 2006.

The act modifies the fourth requirement by allowing the D-5l permit to be issued to a premises that is located in a municipal corporation that is wholly located within the geographic boundaries of a township, provided that the municipal corporation and the unincorporated portion of the township have a combined population density of less than 450 people per square mile according to the most recent federal decennial census.¹⁰

⁹ R.C. 4301.81, not in the act.

¹⁰ R.C. 4303.181(L)(2)(d)(v).



HISTORY

ACTION	DATE
Introduced	09-28-15
Reported, H. Gov't Accountability & Oversight	12-09-15
Passed House (96-1)	01-27-16
Reported, S. Agriculture	05-25-16
Passed Senate (32-0)	05-25-16
House concurred in Senate amendments (94-2)	05-25-16

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