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H.B. 669
133rd General Assembly

Final Analysis

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Version: As Passed by the General Assembly

Primary Sponsors: Reps. Swearingen and LaRe

Effective date: Emergency: October 13, 2020

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SUMMARY

To-go drinks

- Allows bars, restaurants, small breweries, micro-distilleries, and wineries (qualified permit holders) to sell alcoholic beverages in sealed, covered cups or other containers for off-premises consumption, including via delivery.
- Specifies that a qualified permit holder may only sell alcoholic beverages for to-go purposes if:
 - The permit holder is otherwise authorized to sell the alcoholic beverages under the permit; and
 - The permit holder also sells a meal with the alcoholic beverages.
- Prohibits a qualified permit holder from selling more than three to-go alcoholic beverages to any individual per meal.
- Prior to delivering an alcoholic beverage to a personal consumer, requires a qualified permit holder, or a qualified permit holder's employee, to make an effort to ensure that the personal consumer is 21 or older.

Expansion of sales area of liquor permit premises

- Through December 31, 2022, allows a qualified permit holder to expand the area in which it may sell alcoholic beverages by the individual drink for on-premises consumption as follows:
 - In any area of the permit holder's property in which sales are not currently authorized and that is outdoors, including the permit holder's parking area;

- In any outdoor area of public property that is immediately adjacent to the permit holder's premises, if the permit holder obtains written consent from the local government that owns the property; and
- In any outdoor area of private property that is immediately adjacent to the permit holder's premises, if the permit holder obtains the owner's written consent.
- Requires the permit holder to notify the Division of Liquor Control and the Investigative Unit of the Department of Public Safety ten days before the expansion.

Opened Container Law exemptions

- Exempts from the Opened Container Law:
 - Delivery of a to-go alcoholic beverage in a sealed, closed container, in accordance with the act, to its final destination; and
 - Consumption of an alcoholic beverage in an expanded outdoor area of a qualified permit holder.

DETAILED ANALYSIS

To-go drinks

The act allows bars, restaurants, breweries, micro-distilleries, and wineries (qualified permit holders) to sell alcoholic beverages (beer, wine, mixed beverages, or spirituous liquor) to go. Examples of to-go "drinks" may include a cocktail, such as a Manhattan, a glass of wine, or a pint of beer. To-go sales of alcoholic beverages are subject to the following:

1. The qualified permit holder must sell the alcoholic beverages to personal consumers in sealed, covered cups for off-premises consumption;
2. The permit holder may deliver the to-go drinks, including through use of an H liquor permit holder (shippers of alcoholic beverages);
3. The permit holder must sell the alcoholic beverages along with a meal;
4. The permit holder may sell no more than three alcoholic beverages per meal to any individual;
5. The permit holder may only sell alcoholic beverages that the permit holder is otherwise authorized to sell under the permit. (For example, a D-2 liquor permit holder may sell wine and mixed beverages. The D-2 permit holder could not sell to-go beer orders because the permit does not authorize beer sales.)
6. Prior to delivering an alcoholic beverage to a personal consumer, the permit holder, or a permit holder's employee, must make a bona fide effort to ensure that the personal consumer is 21 or older.¹

¹ R.C. 4303.185. A qualified permit holder is an A-1, A-1-A, A-1c, A-2, A-2f, A-3a, or D class liquor permit holder (see "**Background**," below).

Expansion of sales area of liquor permit premises

Through December 31, 2022, the act allows a qualified permit holder to expand the area in which it may sell alcoholic beverages, as follows:

1. In any area of the permit holder's property in which sales are not currently authorized and that is outdoors, including the permit holder's parking area;
2. In any outdoor area of public property that is immediately adjacent to the permit holder's premises, if the permit holder obtains written consent in accordance with the act (see below); and
3. In any outdoor area of private property that is immediately adjacent to the permit holder's premises, if the permit holder obtains the written consent of the property owner.

If a qualified permit holder sells alcoholic beverages in an outdoor area, the permit holder must clearly delineate the area where personal consumers may consume alcoholic beverages. The act also excludes these expansions from the Division's existing authority to approve the expansion or diminution of a premises to which a liquor permit was issued.²

Approval by public entities

For sales of alcoholic beverages in an outdoor area of public property discussed above, a qualified permit holder must obtain the written consent of either of the following:

1. If the public property is located in a municipal corporation, the municipal corporation's executive officer or the executive officer's designee. If the executive officer designee denies consent, the permit holder may appeal the denial to the municipal corporation's legislative authority. The legislative authority may adopt a resolution requesting the executive officer to reconsider the executive officer's denial.
2. If the public property is located in the unincorporated area of a township, the board of township trustees by the adoption of a resolution consenting to the sale of alcoholic beverages.³

Notification

The act requires a qualified permit holder, at least ten days prior to selling alcoholic beverages by the individual drink in an outdoor area, to notify the Division of Liquor Control and Investigative Unit of the Department of Public Safety of the areas that the permit holder intends to sell the alcoholic beverages.⁴

² R.C. 4301.10(C), not in the act, and Section 3(B) and 3(F).

³ Section 3(C).

⁴ Section 3(E).

Opened Container Law exemptions

The act exempts both of the following from the Opened Container Law (Ohio law that prohibits open containers of alcohol in certain areas, as well as the active consumption of alcohol in those areas):

1. Delivery of a to-go alcoholic beverage in accordance with the act to its final destination. However, the beverage must be in a closed container and sealed so that it is visibly apparent that the closed container has not been opened or tampered with after sealing; and
2. Consumption of an alcoholic beverage in an expanded outdoor area of a qualified permit holder.⁵

Background

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

Class of liquor permit ⁶	Authorized activity
A-1	Large brewery may sell its beer for on- or off-premises consumption.
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.

⁵ R.C. 4301.62(H) and Section 3(D).

⁶ R.C. 4303.021 to 4303.183.

Class of liquor permit ⁶	Authorized activity
D-1	Restaurant or other specified entity may sell beer for on- or off-premises consumption.
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	D-4 permit holder may 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 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.

HISTORY

Action	Date
Introduced	05-20-20
Reported, H. Commerce & Labor	06-10-20
Passed House (87-8)	06-10-20
Reported, S. Agriculture & Natural Resources	09-23-20
Passed Senate (30-2)	09-23-20
House concurred in Senate amendments (86-4)	09-23-20