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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Lang and Perales

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SUMMARY

- Reinstates the authorized hours of operation for liquor permit premises as they existed prior to the state of emergency declared in response to COVID-19.
- Prohibits a public health or alcohol permitting authority from taking any disciplinary action or, if disciplinary action has been initiated, requires those entities to cease taking such action, against a permit holder if both of the following apply:
 - The disciplinary action is based on a violation of the current emergency rule governing hours of operation and the violation occurred on or after July 31, 2020; and
 - Other than violating those hours, the permit holder operated in compliance with the permit holder's liquor permit.
- Declares an emergency.

DETAILED ANALYSIS

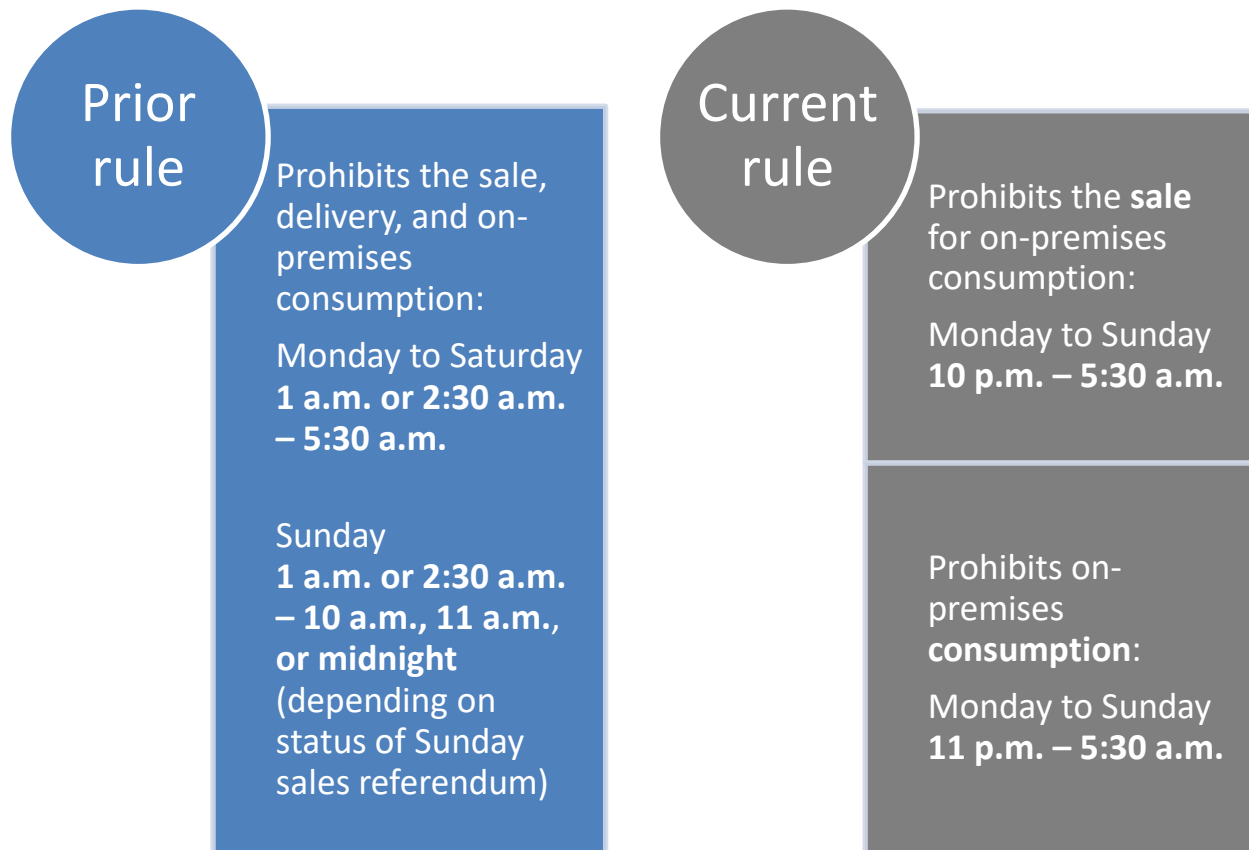
Hours of operation

Prior to the state of emergency due to COVID-19,¹ the sale, delivery, and on-premises consumption of beer, wine, mixed beverages, or spirituous liquor were generally prohibited (depending on the type of liquor permit) during the times reflected in the blue box below.² But, the Liquor Control Commission issued rules, effective on July 31, 2020, that altered and

¹ Per Executive Order 2020-01D that was issued on March 9, 2020.

² Ohio Administrative Code (O.A.C.) 4301:1-1-49(B) and (C).

established more restrictive hours of operation for all liquor permit premises, which are reflected in the grey box below.³



The bill rescinds the current rule regarding hours of operation (the grey box) and reinstates the prior hours of operation (the blue box).⁴ For example, under the current rule, the operator of a bar with a D-5 permit must cease serving alcohol at 10 p.m. Under the bill, that D-5 permit holder may continue sales until 2:30 a.m.

However, it is unclear how the current rule (the grey box) affects (1) statutorily prescribed hours of operation or (2) Sunday sales. First, for certain permits, hours of operation are prescribed in statute. For example, the Revised Code authorizes D-5i permit holders to sell beer and intoxicating liquor until 2:30 a.m.⁵ Second, hours of operation on Sundays, which must be approved via referendum in each precinct, are also prescribed by statute. For instance, in some precincts sales are authorized to begin at 10 a.m.⁶ It is unclear if the current rule conflicts

³ O.A.C. 4301:1-1-80(A).

⁴ Section 1(B).

⁵ R.C. 4303.181(I), not in the bill.

⁶ R.C. 4303.182, not in the bill.

with these types of statutes. However, regarding Sunday sales, it does not appear that the Division of Liquor Control is, in practice, altering statutory hours of operation.

Disciplinary action

The bill prohibits a board of health, the Department of Health, the Division of Liquor Control, or the Liquor Control Commission from taking any disciplinary action or, if disciplinary action has been initiated, requires those entities to cease taking such action, against a permit holder if both of the following apply:

1. The disciplinary action is based on a violation of the current emergency rule governing hours of operation and the violation occurred on or after July 31, 2020.
2. Other than violating those hours, the permit holder operated in compliance with the permit holder's liquor permit.

A permit holder is the holder of an A-1, A-1-A, A-1c, A-2, A-2f, E, or class C or D liquor permit (see "**Background**," below).⁷

Background

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

Class of liquor permit⁸	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).
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.

⁷ Section 1(A) and (C).

⁸ R.C. 4303.02 to 4303.183 and 4303.19, not in the bill.

Class of liquor permit ⁸	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.
D-3a	D-3 permit holder may sell.
D-4	Club may sell beer or intoxicating liquor to members only for on-premises consumption.
D-4a	Allows a D-4 permit holder to sell.
D-5	Restaurant or night club may sell beer or intoxicating liquor for on- or off-premises consumption.
D-5a to D-5o	Various establishments may sell beer or intoxicating liquor for on- or off-premises consumption, depending on the circumstances.
D-7	Restaurant or other specified entity in a resort area may sell beer or intoxicating liquor for on-premises consumption.
E	Railroad car or airline may sell beer or intoxicating liquor for on-premises consumption.

HISTORY

Action	Date
Introduced	10-26-20