



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 37 of the 131st G.A.

**Date:** May 29, 2015

**Status:** As Passed by the House

**Sponsor:** Reps. Stinziano and Duffey

**Local Impact Statement Procedure Required:** No

**Contents:** Exempts persons in publicly owned markets from the open container law under certain conditions

### State Fiscal Highlights

- The bill allows for the consumption of beer or spirituous liquor in an open container at publicly owned markets when purchased from D liquor permit holders in the market. Currently, there is one such market in this state that would qualify under this exemption. This may result in up to a handful of additional D liquor permit applications and issuances by the Division of Liquor Control within the Department of Commerce.

### Local Fiscal Highlights

- There could be increased costs for local enforcement to ensure that consumption is confined to the market. However, costs would be at least partially offset by revenue from more citations being issued for open container violations. Open container violations are a minor misdemeanor with a maximum fine of \$150.

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## Detailed Fiscal Analysis

### Overview

Generally, under current law a person is prohibited from carrying an open container of beer or liquor in any public place. However, certain exceptions of the law exist, most often for festivals and other temporary events held in streets and parks. Under the bill, a person who purchases beer or intoxicating liquor from a D liquor permit holder that is located in a market is permitted to have that beverage in an open container at that particular market. The bill defines a qualifying market as one that: (1) leases space in the market to individual vendors, not less than 50% of which are retail food establishments or food service operations, (2) has an indoor sales floor area of not less than 22,000 square feet, (3) hosts a farmer's market on each Saturday from April through December, and (5) is owned by a political subdivision. The North Market in Columbus is the only market meeting these criteria.

### Fiscal effects

The bill allows for the consumption of beer or spirituous liquor in an open container so long as these beverages are purchased from a D liquor permit holder located in the market. There is one such permit premises currently at the North Market, although in the future there could be a handful of additional D liquor permit applications and issuances by the Division of Liquor Control (DOLC) within the Department of Commerce. Fees for D liquor permits range from \$300 to \$2,344.<sup>1</sup> Liquor permit fees are collected by DOLC and deposited into the Undivided Liquor Permit Fund (Fund 7066), and then distributed to the State Liquor Regulatory Fund (Fund 5LP0) used by DOLC (45%), the local taxing district where the permit is issued (35%), and the Statewide Treatment and Prevention Fund (Fund 4750) used by the Department of Mental Health and Addiction Services (20%).

There could be some minimal additional costs for local law enforcement as a result of the bill. Specifically, there could be more people prosecuted for open container violations if individuals leave the market with an open container. If this occurs, adjudication costs for counties and municipalities could increase. These costs would be at least partially offset by the amount of revenue the city of Columbus would receive from (1) its share of any new liquor permit fees, and (2) more citations being issued for open container violations. The local taxing district where a new permit is issued receives 35% of the permit revenue that was paid to DOLC. The fine for an open container violation is a maximum of \$150.

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<sup>1</sup> The range does not include the D5N liquor permit which is for casino operators or casino management companies. The fee for a D5N liquor permit is \$20,000.