



Ohio Legislative Service Commission

Shannon Pleiman

Fiscal Note & Local Impact Statement

Bill: H.B. 47 of the 131st G.A. **Date:** April 22, 2015
Status: As Reported by Senate State & Local Government **Sponsor:** Reps. Blessing and Driehaus

Local Impact Statement Procedure Required: No

Contents: Permits the creation of outdoor refreshment areas, exempts persons within the area from the open container law, and declares an emergency

State Fiscal Highlights

Outdoor refreshment areas

- The bill permits the creation of outdoor refreshment areas, allowing for the consumption of beer and spirituous liquor at outdoor locations within the designated areas. There are 46 municipal corporations and townships in Ohio with a population of at least 35,000 that could initially approve these areas. After two years of the effective date of the bill, an additional 2,271 municipal corporations and townships with a population of less than 35,000 could also approve these areas.
- If any of the eligible municipal corporations or townships creates an outdoor refreshment area, the Division of Liquor Control within the Department of Commerce must issue an outdoor refreshment area designation to certain liquor permit holders located within the area.
- This may result in additional liquor permit applications and issuances by the Division of Liquor Control. Liquor permit fees are collected by the Division of Liquor Control and deposited into the Undivided Liquor Permit Fund (Fund 7066), and then distributed to the State Liquor Regulatory Fund (Fund 5LP0) used by the Division of Liquor Control (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%).

Issuance of F permits

- The bill allows the Division of Liquor Control to issue an F liquor permit for the same location as an F-8 liquor permit. This may result in a handful of additional F liquor permit applications and issuances by the Division. The fee for an F liquor permit is \$40, which is deposited into Fund 7066 and then distributed to Fund 5LP0 as described above.

Local Fiscal Highlights

Outdoor refreshment areas

- Municipal corporations and townships that approve the creation of outdoor refreshment areas (46 initially eligible, 2,271 additional after two years), there could be increased costs for local law enforcement to ensure that imbibers confine their drinking to the designated area.
- Municipal corporations and townships receive a portion of liquor permit fee revenue collected by the Division of Liquor Control. The issuance of additional liquor permits for establishments in outdoor refreshment areas would result in a gain in liquor permit revenue for the municipal corporation or township where the liquor permit is issued.

Commercial quadricycle open container exemption

- Additionally, the bill exempts persons riding a commercial quadricycle (beer or wine bicycle) from the Open Container Law under certain conditions. Although this exemption could potentially reduce the number of open container violations (up to \$150 fine), the impact on local law enforcement would be negligible since beer and wine bicycles are not in widespread use.
-

Detailed Fiscal Analysis

Political subdivisions where outdoor refreshment areas may be situated

The bill allows for the creation of "outdoor refreshment areas" within municipal corporations or townships. Under the bill, a municipal corporation or township with a population of greater than 35,000 may create outdoor refreshment areas upon the effective date of the bill. Municipal corporations or townships with a population less than 35,000 are required to wait two years after the effective date of the bill to create outdoor refreshment areas. The areas may be up to 320 contiguous acres or one-half square mile for municipal corporations and townships with a population greater than 35,000 and up to 150 contiguous acres for municipal corporations and townships with a population less than 35,000. These areas must include at least four A-1, A-1-A, A-1c, A-2, or D liquor permit holders. There are many types of D permits, but the vast majority of these permits are issued for restaurants and bars for on-premises consumption of alcohol. The eligible A permit holders are manufacturers of beer or wine. Currently, there are approximately 38,000 D and 474 A-1, A-1-A, A-1c, or A-2 liquor permits issued by the Division of Liquor Control (DOLC) within the Department of Commerce. The bill exempts imbibers from the open container law when inside the areas. There are two primary steps that must be taken to fully allow for this exemption within the outdoor refreshment areas: (1) the municipal corporation or township must approve the area, and (2) DOLC must then designate the businesses that are eligible.

Effects of outdoor refreshment areas on municipal corporations and townships

Upon the effective date of the bill, 46 municipal corporations or townships would be eligible to create an outdoor refreshment area. Two years after the effective date of the bill, an additional 2,271 municipal corporations or townships would be eligible to create an outdoor refreshment area. To establish an outdoor refreshment area or to expand an existing one, the executive officer of a municipal corporation or the fiscal officer of a township must file an application with the legislative authority of the municipal corporation or township in which the outdoor refreshment area will be created. The legislative authority must approve the application by ordinance or resolution. The table below shows the number of Ohio municipal corporations and townships that would be able to create these designated outdoor drinking areas by population tier as specified under the bill. Overall, these 2,317 municipal corporations and townships could eventually create a maximum of 2,334 outdoor drinking areas across the state.

Municipal Corporations or Townships Eligible to Create Outdoor Refreshment Areas	
Population Tier	Number of Municipal Corporations or Townships
Tier 1: Population 0-35,000 – allowed one outdoor refreshment area (2 years after effective date of the bill)	2,271
Tier 2: Population 35,001-50,000 – allowed one outdoor refreshment area per municipal corporation or township	29
Tier 3: Population 50,001 or more – allowed two outdoor refreshment areas per municipal corporation or township	17
TOTAL	2,317

Note: Population figures are based on the 2010 U.S. Census.

Municipal corporations and townships that approve outdoor refreshment areas are likely to see increased expenses for overseeing compliance with the outdoor refreshment area law and providing additional law enforcement in and around designated outdoor refreshment areas. It is possible that there could be more people prosecuted for open container violations if individuals leave the outdoor refreshment area boundaries with an open container. If this occurs, adjudication costs for counties and municipalities could increase. These costs would be at least partially offset by revenue from (1) any new liquor permits that could be issued as a result of the new outdoor refreshment areas, and (2) more citations being issued for open container violations. Open container violations are minor misdemeanors carrying fines of up to \$150. The municipal corporation or township where a new permit is issued receives 35% of the permit revenue that was paid to DOLC.

Effects of outdoor refreshment areas on the Division of Liquor Control

While the bulk of the fiscal effects of the outdoor refreshment areas created under the bill would fall to the 46 current and 2,271 subsequently eligible political subdivisions, the state DOLC could also incur a minimal increase in costs to administer the bill's provisions. Specifically, the bill does not allow for DOLC to charge a supplementary fee

when determining whether A-1, A-1-A, A-1c, A-2, and D permit holders may be designated as businesses that are eligible for the open container consumption exemption. Part of this increased cost could be offset by new liquor permit fee revenue deposited into the Undivided Liquor Permit Fund (Fund 7066) as a result of an increase in the number of issuances among these five permit types. The annual fees for these permits range from \$76 to \$2,344. New permit fee revenue received would be subsequently distributed to the State Liquor Regulatory Fund (Fund 5LP0) used by DOLC, which receives 45% of the permit fee revenue, the Statewide Treatment and Prevention Fund (Fund 4750) used by the Department of Mental Health and Addiction Services (20%), as well as the local taxing district where the permits are issued (35%).

Issuance of F liquor permits

The bill allows DOLC to issue an F liquor permit (authorizing an association, labor union, or nonprofit organization to purchase and sell beer for a period not longer than five days) for the same location as an F-8 liquor permit (allowing alcohol sales at special events held on public property), provided that the two permits are not exercised concurrently. Additionally, the bill modifies where an F-8 permit may be issued from a county that has a population of between 750,000 and 900,000 on July 10, 2007 to a county that has a population of more than 750,000. Under current law, DOLC is prohibited from issuing an F-2 or F-6 permit for a specific event not conducted by the holder of an F-8 permit provided that the holder of the F-8 permit certifies to DOLC that it will not exercise its permit privileges during that specific event. The bill would add an F permit to the prohibition. Since F-8 liquor permits would only be issued in Hamilton, Franklin, and Cuyahoga counties, the effect of the bill may result in a handful of additional F liquor permit applications and issuances by DOLC. The permit fee for an F liquor permit is \$40. As mentioned above, liquor permit fees are collected by DOLC and deposited into Fund 7066 and then distributed to Fund 5LP0 used by DOLC (45%), the local taxing district where the permit is issued (35%), and Fund 4750 used by the Department of Mental Health and Addiction Services (20%).

Open container exemption for people riding beer or wine bikes

The bill exempts a person from the Open Container Law if the person, pursuant to a prearranged contract, is riding a beer or wine bike under the following conditions: (1) the person is not occupying a front seat where the operator is steering and braking, (2) the bike is being operated on a street, highway, or other public or private property used for vehicular travel or parking, (3) the person has possession of an open container of beer or wine on the bike, and (4) the open container in the imbibing rider's possession is not more than either 36 ounces of beer or 18 ounces of wine. Ultimately, the likely result would be a reduction in the number of open container violations. This may change, though, as beer and wine bicycles become more popular.