



Ohio Legislative Service Commission

Bill Analysis

Jeff Grim

Sub. H.B. 178

131st General Assembly
(As Passed by the House)

Reps. Manning, Sweeney, LaTourette, Brenner, Thompson, Becker, Young, Blessing, Henne, Duffey, Cera, Roegner, Boyd, Maag, Buchy, Anielski, Antonio, Arndt, Baker, Brown, Celebrezze, Dovilla, Fedor, Grossman, Hackett, Hambley, Howse, Huffman, Lepore-Hagan, M. O'Brien, S. O'Brien, Patterson, Perales, Phillips, Ramos, Retherford, Rogers, Ruhl, Ryan, Schuring, Sears, Sheehy, Strahorn

BILL SUMMARY

- Establishes the F-10 liquor permit to authorize a person who organizes a farmers market to allow A-2 liquor permit holders (wine manufacturers) or S liquor permit holders (certain wine manufacturers that ship wine to consumers) to sell both of the following at the farmers market:
 - Tasting samples of wine manufactured by the A-2 or S permit holder for consumption on the premises of the farmers market; and
 - Sealed containers of wine manufactured by the A-2 or S permit holder for consumption off the premises of the farmers market.
- Specifies that, for purposes of the bill, an "A-2 permit holder" means an A-2 permit holder that produces less than 250,000 gallons of wine per year.
- Prohibits an A-2 or S permit holder from engaging in certain activities at a farmers market under an F-10 permit, including selling a variety of wine that is offered for distribution by a wholesale distributor in any state and selling more than four and one-half liters of wine per household for off-premises consumption.
- Exempts a person who sells wine at a farmers market under an F-10 permit from the requirement to be licensed as a retail food establishment under the Retail Food Establishments and Food Service Operations Law.

- Exempts from the Open Container Law a person who has in the person's possession an opened container of wine served as a tasting sample for on-premises consumption at a farmers market for which an F-10 permit has been issued.

CONTENT AND OPERATION

Sale of wine at farmers markets

The bill establishes the F-10 liquor permit and authorizes the Division of Liquor Control to issue the permit to a person who organizes a farmers market. The F-10 permit holder may allow a farmers market participant that is an A-2 liquor permit holder (wine manufacturer) or S liquor permit holder (certain wine manufacturers that ship wine to consumers) to do the following at the location of the farmers market:

(1) Sell tasting samples of wine manufactured by the A-2 or S permit holder for consumption on the premises where the farmers market is located; and

(2) Sell wine manufactured by the A-2 or S permit holder in sealed containers for consumption off the premises where the farmers market is located.¹

Under the bill, "farmers market" means a farmers market registered with the Department of Agriculture, excluding all of the following:

(1) A for-profit farmers market;

(2) A farmers market located at a rest area within the limits of the right-of-way of an interstate highway;

(3) A farmers market located at a service facility that is along the Ohio Turnpike; and

(4) A farmers market with fewer than five farmers market participants.²

For purposes of the bill, an "A-2 permit holder" means an A-2 permit holder that produces less than 250,000 gallons of wine per year.³

¹ R.C. 4303.2010(B).

² R.C. 4303.2010(A)(1).

³ R.C. 4303.2010(A)(2).



Prohibited sales activities at a farmers market

The bill prohibits an A-2 or S permit holder from doing any of the following at a farmers market for which an F-10 permit has been issued:

- (1) Selling a tasting sample in an amount that exceeds one ounce;
- (2) Selling more than one sample of each wine offered for sale to any one person;
- (3) Selling more than five varieties of wine as tasting samples per day;

(4) Selling a variety of wine that is offered for distribution by a wholesale distributor in any state. However, the bill specifies that this prohibition does not apply to a variety of wine solely distributed by the A-2 or S permit holder.

(5) Selling more than four and one-half liters of wine per household for off-premises consumption; and

(6) Allowing any person other than the A-2 or S permit holder, a member of the applicable permit holder's family, or an employee of the applicable permit holder to sell wine.⁴

The bill also prohibits an A-2 or S permit holder from selling wine at a farmers market unless the sale of wine for consumption on the premises and the sale of wine for consumption off the premises is authorized in the election precinct in which the farmers market that is the subject of the F-10 permit is located.⁵

Finally, the bill prohibits an F-10 permit holder from allowing more than four A-2 permit holders, four S permit holders, or a combination of four A-2 and S permit holders per day to sell tasting samples and sealed containers of wine at the applicable farmers market.⁶

F-10 liquor permit requirements

An applicant for an F-10 permit must submit an application for the permit to the Division of Liquor Control and include in the application the location of the farmers market that is the subject of the application.⁷ The F-10 permit is effective for nine

⁴ R.C. 4303.2010(E).

⁵ R.C. 4303.2010(G).

⁶ R.C. 4303.2010(H).

⁷ R.C. 4303.2010(C).



months and is not renewable. However, a person who organizes a farmers market may re-apply for a new permit. The fee for the F-10 permit is \$100.⁸

The bill also specifies that the premises of the farmers market for which an F-10 permit is issued must be clearly defined and sufficiently restricted to allow proper enforcement of the permit by state and local law enforcement officers. If an F-10 permit is issued for all or a portion of the same premises for which another class of permit is issued, the bill requires the Division to suspend that permit holder's privileges in that portion of the premises in which the F-10 permit is in effect.⁹

Exemptions

The bill exempts a person who sells wine at a farmers market under an F-10 permit from the requirement to be licensed as a retail food establishment under the Retail Food Establishments and Food Service Operations Law.¹⁰ The bill also exempts from the Open Container Law a person who has in the person's possession an opened container of wine served as a tasting sample by an A-2 or S permit holder for on-premises consumption at a farmers market for which an F-10 permit has been issued.¹¹

HISTORY

ACTION	DATE
Introduced	04-29-15
Reported, H. Gov't Accountability & Oversight	01-13-16
Passed House (97-1)	01-27-16

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⁸ R.C. 4303.2010(F).

⁹ R.C. 4303.2010(D).

¹⁰ R.C. 3717.22(B)(2)(d).

¹¹ R.C. 4301.62(C)(1)(b).

