

As Re-Referred to the Senate General Government Committee

135th General Assembly

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Sub. H. B. No. 86

Representative LaRe

Cosponsors: Representatives Carruthers, Stein, Miller, J., Schmidt, Brennan, Barhorst, Miller, A., Dell'Aquila, Abrams, Brewer, Creech, Cross, Forhan, Johnson, Jones, Kick, Lampton, Mathews, Richardson, Russo, Seitz, Somani, Swearingen, Thomas, C., Upchurch, Wiggam, Williams

A BILL

To amend sections 4301.17, 4301.171, 4303.041, 1
4303.184, and 4399.15 of the Revised Code to 2
revise specified provisions of the liquor 3
control laws. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4301.17, 4301.171, 4303.041, 5
4303.184, and 4399.15 of the Revised Code be amended to read as 6
follows: 7

Sec. 4301.17. (A) (1) Subject to local option as provided 8
in sections 4301.32 to 4301.40 of the Revised Code, five state 9
liquor stores or agencies may be established in each county. One 10
additional store may be established in any county for each 11
twenty thousand of population of that county or major fraction 12
thereof in excess of the first forty thousand, according to the 13
last preceding federal decennial census or according to the 14
population estimates certified by the department of development 15
between decennial censuses. A person engaged in a mercantile 16

business may act as the agent for the division of liquor control 17
for the sale of spirituous liquor in a municipal corporation, in 18
the unincorporated area of a township, or in an area designated 19
and approved as a resort area under section 4303.262 of the 20
Revised Code. The division shall fix the compensation for such 21
an agent in the manner it considers best, but the compensation 22
shall not exceed seven per cent of the gross sales made by the 23
agent in any one year. 24

(2) The division shall adopt rules in accordance with 25
Chapter 119. of the Revised Code governing the allocation and 26
equitable distribution of agency store contracts. The division 27
shall comply with the rules when awarding a contract under 28
division (A)(1) of this section. 29

(3) Pursuant to an agency store's contract, an agency 30
store may be issued a D-1 permit to sell beer, a D-2 permit to 31
sell wine and mixed beverages, and a D-5 permit to sell beer, 32
wine, mixed beverages, and spirituous liquor. 33

(4) Pursuant to an agency store's contract, an agency 34
store may be issued a D-3 permit to sell spirituous liquor if 35
the agency store contains at least ten thousand square feet of 36
sales floor area. A D-3 permit issued to an agency store shall 37
not be transferred to a new location. The division shall revoke 38
any D-3 permit issued to an agency store under division (A)(4) 39
of this section if the agent no longer operates the agency 40
store. The division shall not issue a D-3a permit to an agency 41
store. 42

(5) An agency store to which a D-8 permit has been issued 43
may allow the ~~sale~~consumption of tasting samples of spirituous 44
liquor in accordance with section 4301.171 of the Revised Code. 45

(6) An agency store may sell beer, wine, mixed beverages, 46
and spirituous liquor only between the hours of nine a.m. and 47
eleven p.m. 48

(B) When an agency contract is proposed, when an existing 49
agency contract is assigned, when an existing agency proposes to 50
relocate, or when an existing agency is relocated and assigned, 51
before entering into any contract, consenting to any assignment, 52
or consenting to any relocation, the division shall notify the 53
legislative authority of the municipal corporation in which the 54
agency store is to be located, or the board of county 55
commissioners and the board of township trustees of the county 56
and the township in which the agency store is to be located if 57
the agency store is to be located outside the corporate limits 58
of a municipal corporation, of the proposed contract, 59
assignment, or relocation, and an opportunity shall be provided 60
officials or employees of the municipal corporation or county 61
and township for a complete hearing upon the advisability of 62
entering into the contract or consenting to the assignment or 63
relocation. When the division sends notice to the legislative 64
authority of the political subdivision, the division shall 65
notify, by certified mail or by personal service, the chief 66
peace officer of the political subdivision, who may appear and 67
testify, either in person or through a representative, at any 68
hearing held on the advisability of entering into the contract 69
or consenting to the assignment or relocation. 70

If the proposed agency store, the assignment of an agency 71
contract, or the relocation of an agency store would be located 72
within five hundred feet of a school, church, library, public 73
playground, or township park, the division shall not enter into 74
an agency contract until it has provided notice of the proposed 75
contract to the authorities in control of the school, church, 76

library, public playground, or township park and has provided 77
those authorities with an opportunity for a complete hearing 78
upon the advisability of entering into the contract. If an 79
agency store so located is operating under an agency contract, 80
the division may consent to relocation of the agency store or to 81
the assignment of that contract to operate an agency store at 82
the same location. The division may also consent to the 83
assignment of an existing agency contract simultaneously with 84
the relocation of the agency store. In any such assignment or 85
relocation, the assignee and the location shall be subject to 86
the same requirements that the existing location met at the time 87
that the contract was first entered into as well as any 88
additional requirements imposed by the division in rules adopted 89
by the superintendent of liquor control. The division shall not 90
consent to an assignment or relocation of an agency store until 91
it has notified the authorities in control of the school, 92
church, library, public playground, or township park and has 93
provided those authorities with an opportunity for a complete 94
hearing upon the advisability of consenting to the assignment or 95
relocation. 96

Any hearing provided for in this division shall be held in 97
the central office of the division, except that upon written 98
request of the legislative authority of the municipal 99
corporation, the board of county commissioners, the board of 100
township trustees, or the authorities in control of the school, 101
church, library, public playground, or township park, the 102
hearing shall be held in the county seat of the county where the 103
proposed agency store is to be located. 104

(C) All agency contracts entered into by the division 105
pursuant to this section shall be in writing and shall contain a 106
clause providing for the termination of the contract at will by 107

the division upon its giving ninety days' notice in writing to 108
the agent of its intention to do so. Any agency contract may 109
include a clause requiring the agent to report to the 110
appropriate law enforcement agency the name and address of any 111
individual under twenty-one years of age who attempts to make an 112
illegal purchase. 113

The division shall issue a C-1 and C-2 permit to each 114
agent who prior to November 1, 1994, had not been issued both of 115
these permits, notwithstanding the population quota restrictions 116
contained in section 4303.29 of the Revised Code or in any rule 117
of the liquor control commission and notwithstanding the 118
requirements of section 4303.31 of the Revised Code. The 119
location of a C-1 or C-2 permit issued to such an agent shall 120
not be transferred. The division shall revoke any C-1 or C-2 121
permit issued to an agent under this paragraph if the agent no 122
longer operates an agency store. 123

The division may enter into agreements with the department 124
of development to implement a minority loan program to provide 125
low-interest loans to minority business enterprises, as defined 126
in section 122.71 of the Revised Code, that are awarded liquor 127
agency contracts or assignments. 128

(D) If the division closes a state liquor store and 129
replaces that store with an agency store, any employees of the 130
division employed at that state liquor store who lose their jobs 131
at that store as a result shall be given preference by the agent 132
who operates the agency store in filling any vacancies that 133
occur among the agent's employees, if that preference does not 134
conflict with the agent's obligations pursuant to a collective 135
bargaining agreement. 136

If the division closes a state liquor store and replaces 137

the store with an agency store, any employees of the division 138
employed at the state liquor store who lose their jobs at that 139
store as a result may displace other employees as provided in 140
sections 124.321 to 124.328 of the Revised Code. If an employee 141
cannot displace other employees and is laid off, the employee 142
shall be reinstated in another job as provided in sections 143
124.321 to 124.328 of the Revised Code, except that the 144
employee's rights of reinstatement in a job at a state liquor 145
store shall continue for a period of two years after the date of 146
the employee's layoff and shall apply to jobs at state liquor 147
stores located in the employee's layoff jurisdiction and any 148
layoff jurisdiction adjacent to the employee's layoff 149
jurisdiction. 150

(E) The division shall require every agent to give bond 151
with surety to the satisfaction of the division, in the amount 152
the division fixes, conditioned for the faithful performance of 153
the agent's duties as prescribed by the division. 154

Sec. 4301.171. (A) As used in this section: 155

(1) "Broker" and "solicitor" have the same meanings as in 156
rules adopted by the superintendent of liquor control under 157
section 4303.25 of the Revised Code. 158

(2) "Tasting sample" means a small amount of spirituous 159
liquor that is provided in a serving of not more than a quarter 160
ounce of spirituous liquor and, if provided, not more than one 161
ounce of nonalcoholic mixer to an authorized ~~purchaser-person~~ 162
and that allows the ~~purchaser-person~~ to determine, by tasting 163
only, the quality and character of the beverage. 164

(3) "Trade marketing company" means a company that 165
solicits the purchase of beer and intoxicating liquor and 166

educates the public about beer and intoxicating liquor. 167

(4) "Trade marketing professional" means an individual who 168
is an employee of, or is under contract with, a trade marketing 169
company and who has successfully completed a training program 170
described in section 4301.253 of the Revised Code. 171

(B) Notwithstanding section 4301.24 of the Revised Code, 172
an agency store to which a D-8 permit has been issued may allow 173
a trade marketing professional, broker, or solicitor to offer 174
~~for sale~~ tasting samples of spirituous liquor when conducted in 175
accordance with this section. A tasting sample shall not be ~~sold~~ 176
provided for the purpose of general consumption. 177

(C) Tasting samples of spirituous liquor may be offered 178
~~for sale~~ at an agency store by a trade marketing professional, 179
broker, or solicitor if all of the following apply: 180

(1) The tasting samples are ~~sold~~ provided only in the area 181
of the agency store in which spirituous liquor is sold and that 182
area is open to the public. 183

(2) The tasting samples are ~~sold~~ provided only by the 184
trade marketing professional, broker, or solicitor. 185

(3) The spirituous liquor is registered under division (A) 186
(8) of section 4301.10 of the Revised Code. 187

(4) Not less than ten business days prior to the 188
~~salesampling~~, the trade marketing professional, broker, or 189
solicitor has provided written notice to the division of liquor 190
control of the date and time of the sampling, and of the type 191
and brand of spirituous liquor to be sampled at the agency 192
store. 193

(D) ~~A sale~~ The provision of tasting samples of spirituous 194

liquor is subject to rules adopted by the superintendent of 195
liquor control or the liquor control commission. 196

(E) An offering ~~for sale~~ of tasting samples of spirituous 197
liquor shall be limited to a period of not more than two hours. 198

(F) For purposes of offering ~~for sale~~ tasting samples of 199
spirituous liquor, a trade marketing professional, broker, or 200
solicitor shall purchase the spirituous liquor from the agency 201
store at the current retail price. An authorized ~~purchaser~~ 202
person shall not be charged ~~not less than fifty cents for each a~~ 203
tasting sample of spirituous liquor. When ~~the sale of tasting~~ 204
~~samples sampling~~ of spirituous liquor at an agency store is 205
completed, any bottles of spirituous liquor used to provide 206
tasting samples that are not empty shall be marked as "sample" 207
and removed from the agency store by the trade marketing 208
professional, broker, or solicitor, as applicable. 209

(G) No trade marketing professional, broker, or solicitor 210
shall do any of the following: 211

(1) Advertise the offering ~~for sale~~ of tasting samples of 212
spirituous liquor other than at the agency store where the 213
tasting samples will be offered or as provided in section 214
4301.245 of the Revised Code; 215

(2) Solicit orders or ~~make sales of offer~~ tasting samples 216
of spirituous liquor ~~for in~~ quantities greater than those 217
specified in division (G) (3) of this section; 218

(3) Allow any authorized ~~purchaser person~~ to consume more 219
than four tasting samples of spirituous liquor per day. 220

(H) The ~~purchase consumption~~ of a tasting sample of 221
spirituous liquor shall not be contingent upon the purchase of 222
any other product from an agency store. 223

(I) No employee of an agency store that allows the ~~sale~~ 224
consumption of tasting samples of spirituous liquor shall 225
~~purchase or~~ consume a tasting sample while on duty. 226

(J) If an employee of an agency store that allows the ~~sale~~ 227
consumption of tasting samples of spirituous liquor consumes a 228
tasting sample of spirituous liquor, the employee shall not 229
perform the employee's duties and responsibilities at the agency 230
store on the day the tasting sample is consumed. 231

(K) No person under twenty-one years of age shall consume 232
a tasting sample of spirituous liquor. 233

(L) Not more than ten events at which ~~the sale of~~ tasting 234
samples of spirituous liquor are offered shall occur at an 235
agency store in a calendar month provided that: 236

(1) Not more than two events shall occur in the same day; 237
and 238

(2) There is not less than one hour between the end of one 239
event and the beginning of the next event. 240

(M) No trade marketing professional, trade marketing 241
company, broker, solicitor, owner or operator of an agency 242
store, or an agent or employee of the owner or operator shall 243
violate this section or any rules adopted by the superintendent 244
or the commission for the purposes of this section. 245

Sec. 4303.041. ~~(A) An~~ (A) (1) Except as provided in 246
division (A) (2) of this section, an A-3a permit may be issued to 247
a distiller that manufactures less than one hundred thousand 248
gallons of spirituous liquor per year. ~~An~~ 249

(2) An A-3a permit holder issued an A-3a permit prior to 250
the effective date of this amendment may manufacture any amount 251

of spirituous liquor per year on and after the effective date of 252
this amendment, regardless of whether the permit premises 253
location or ownership of the permit premises is transferred and 254
the permit holder is issued a new A-3a permit. 255

(3) An A-3a permit holder may sell to a personal consumer, 256
in sealed containers for consumption off the premises where 257
manufactured, spirituous liquor that the permit holder 258
manufactures, but sales to the personal consumer may occur only 259
by an in-person transaction at the permit premises. The A-3a 260
permit holder shall not ship, send, or use an H permit holder to 261
deliver spirituous liquor to the personal consumer. 262

"Distiller" means a person in this state who mashes, 263
ferments, distills, and ages spirituous liquor. 264

(B) (1) Except as otherwise provided in this section, no A- 265
3a permit shall be issued unless the sale of spirituous liquor 266
by the glass for consumption on the premises or by the package 267
for consumption off the premises is authorized in the election 268
precinct in which the A-3a permit is proposed to be located. 269

(2) Division (B) (1) of this section does not prohibit the 270
issuance of an A-3a permit to an applicant for such a permit who 271
has filed an application with the division of liquor control 272
before March 22, 2012. 273

(C) (1) An A-3a permit holder may offer for sale tasting 274
samples of spirituous liquor. The A-3a permit holder shall not 275
serve more than four tasting samples of spirituous liquor per 276
person per day. A tasting sample shall not exceed a quarter 277
ounce. Tasting samples shall be only for the purpose of allowing 278
a purchaser to determine, by tasting only, the quality and 279
character of the spirituous liquor. The tasting samples shall be 280

offered for sale in accordance with rules adopted by the 281
division of liquor control. 282

(2) An A-3a permit holder shall sell not more than three 283
liters of spirituous liquor per day from the permit premises to 284
the same personal consumer. 285

An A-3a permit holder may sell spirituous liquor in sealed 286
containers for consumption off the premises where manufactured 287
as an independent contractor under agreement, by virtue of the 288
permit, with the division of liquor control. The price at which 289
the A-3a permit holder shall sell each spirituous liquor product 290
to a personal consumer is to be determined by the division of 291
liquor control. For an A-3a permit holder to purchase and then 292
offer spirituous liquor for retail sale, the spirituous liquor 293
need not first leave the physical possession of the A-3a permit 294
holder to be so registered. The spirituous liquor that the A-3a 295
permit holder buys from the division of liquor control shall be 296
maintained in a separate area of the permit premises for sale to 297
personal consumers. The A-3a permit holder shall sell such 298
spirituous liquor in sealed containers for consumption off the 299
premises where manufactured as an independent contractor by 300
virtue of the permit issued by the division of liquor control, 301
but the permit holder shall not be compensated as provided in 302
division (A) (1) of section 4301.17 of the Revised Code. Each A- 303
3a permit holder shall be subject to audit by the division of 304
liquor control. 305

(D) The fee for the A-3a permit is two dollars per fifty- 306
gallon barrel. 307

(E) The holder of an A-3a permit may also exercise the 308
same privileges as the holder of an A-3 permit. 309

Sec. 4303.184. (A) Subject to division (B) of this 310
section, a D-8 permit may be issued to any of the following: 311

(1) An agency store; 312

(2) The holder of a C-1, C-2, or C-2x permit issued to a 313
retail store that has any of the following characteristics: 314

(a) The store has at least five thousand five hundred 315
square feet of floor area, and it generates more than sixty per 316
cent of its sales in general merchandise items and food for 317
consumption off the premises where sold. 318

(b) The store is located in a municipal corporation or 319
township with a population of five thousand or less, has at 320
least four thousand five hundred square feet of floor area, and 321
generates more than sixty per cent of its sales in general 322
merchandise items and food for consumption off the premises 323
where sold. 324

(c) Wine constitutes at least sixty per cent of the value 325
of the store's inventory. 326

(3) The holder of both a C-1 and C-2 permit, or the holder 327
of a C-2x permit, issued to a retail store that is located 328
within a municipal corporation or township with a population of 329
fifteen thousand or less. 330

(B) A D-8 permit may be issued to the holder of a C-1, C- 331
2, or C-2x permit only if the premises of the permit holder are 332
located in a precinct, or at a particular location in a 333
precinct, in which the sale of beer, wine, or mixed beverages is 334
permitted for consumption off the premises where sold. Sales 335
under a D-8 permit are not affected by whether sales for 336
consumption on the premises where sold are permitted in the 337
precinct or at the particular location where the D-8 premises 338

are located. 339

(C) (1) The holder of a D-8 permit described in division 340
(A) (2) or (3) of this section may sell tasting samples of beer, 341
wine, and mixed beverages, but not spirituous liquor, at retail, 342
for consumption on the premises where sold in an amount not to 343
exceed two ounces or another amount designated by rule of the 344
liquor control commission. A tasting sample shall not be sold 345
for general consumption. 346

(2) The holder of a D-8 permit described in division (A) 347
(1) of this section may allow the ~~sale-consumption~~ of tasting 348
samples of spirituous liquor in accordance with section 4301.171 349
of the Revised Code. 350

(3) No D-8 permit holder described in division (A) (2) or 351
(3) of this section shall allow any authorized purchaser to 352
consume more than four tasting samples of beer, wine, or mixed 353
beverages, or any combination of beer, wine, or mixed beverages, 354
per day. 355

(D) (1) Notwithstanding sections 4303.11 and 4303.121 of 356
the Revised Code, the holder of a D-8 permit described in 357
division (A) (2) or (3) of this section may sell beer that is 358
dispensed from containers that have a capacity equal to or 359
greater than five and one-sixth gallons if all of the following 360
conditions are met: 361

(a) A product registration fee for the beer has been paid 362
as required in division (A) (8) (b) of section 4301.10 of the 363
Revised Code. 364

(b) The beer is dispensed only in glass containers whose 365
capacity does not exceed one gallon and not for consumption on 366
the premises where sold. 367

(c) The containers are sealed, marked, and transported in 368
accordance with division (E) of section 4301.62 of the Revised 369
Code. 370

(d) The containers have been cleaned immediately before 371
being filled in accordance with rule 4301:1-1-28 of the 372
Administrative Code. 373

(2) Beer that is sold and dispensed under division (D) (1) 374
of this section is subject to both of the following: 375

(a) All applicable rules adopted by the liquor control 376
commission, including, but not limited to, rule 4301:1-1-27 and 377
rule 4301:1-1-72 of the Administrative Code; 378

(b) All applicable federal laws and regulations. 379

(E) The privileges authorized for the holder of a D-8 380
permit described in division (A) (2) or (3) of this section may 381
only be exercised in conjunction with and during the hours of 382
operation authorized by a C-1, C-2, C-2x, or D-6 permit. 383

(F) A D-8 permit shall not be transferred to another 384
location. 385

(G) The fee for the D-8 permit is five hundred dollars. 386

Sec. 4399.15. No person, for the purpose of sale, shall 387
adulterate spirituous liquor, alcoholic liquor, or beer used or 388
intended for drink or medicinal or mechanical purposes, with 389
cocculus indicus, vitriol, ~~grains of paradise~~, opium, alum, 390
capsicum, copperas, laurel water, logwood, Brazilwood, 391
cochineal, sugar of lead, aloes, glucose, tannic acid, or any 392
other substance that is poisonous or injurious to health, or 393
with a substance not a necessary ingredient in the manufacture 394
of the spirituous liquor, alcoholic liquor, or beer, or sell, 395

offer, or keep for sale spirituous liquor, alcoholic liquor, or 396
beer that is so adulterated. 397

In addition to the penalties provided in division (E) of 398
section 4399.99 of the Revised Code, a person convicted of 399
violating this section shall pay all necessary costs and 400
expenses incurred in inspecting and analyzing spirituous liquor, 401
alcoholic liquor, or beer that is so adulterated, sold, kept, or 402
offered for sale. 403

Section 2. That existing sections 4301.17, 4301.171, 404
4303.041, 4303.184, and 4399.15 of the Revised Code are hereby 405
repealed. 406