



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 351 of the 131st G.A.

**Date:** May 25, 2016

**Status:** As Enacted

**Sponsor:** Reps. Perales and DeVitis

**Local Impact Statement Procedure Required:** No

**Contents:** Increases the amount of spirituous liquor that an A-3a liquor permit holder may annually manufacture and allows an A-3a permit holder to obtain an A-1-A liquor permit

### State Fiscal Highlights

- **A-3a liquor permit.** The bill increases the amount of spirituous liquor that an A-3a liquor permit holder may annually manufacture from less than 10,000 gallons to less than 100,000 gallons. Depending on how much spirituous liquor the A-3a liquor permit holder manufactures annually, it may decrease or increase liquor permit fee revenue.
- **Distribution of permit revenues.** Liquor permit fees are collected by the Division of Liquor Control and deposited into the Undivided Liquor Permit Fund (Fund 7066). These amounts are subsequently 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%).
- **A-1-A liquor permit.** The bill allows an A-3a liquor permit holder to obtain an A-1-A liquor permit under certain conditions. The fee for an A-1-A liquor permit is \$3,906. If all current 31 A-3a liquor permit holders obtain an A-1-A permit, this may result in increased revenue of approximately \$121,000. Liquor permit fee revenue is deposited into Fund 7066, and then distributed to the entities in the ways described above.
- **Retail food establishment or food service operation license.** A-1-A liquor permit holders must obtain a retail food establishment or food service operation license. This may result in additional administrative costs for the Department of Agriculture and the Department of Health to license and inspect these establishments and operations. However, any costs will likely be offset by licensing fees which are deposited into the Food Safety Fund (Fund 4P70) used by the Department of Agriculture and the General Operations Fund (Fund 4700) used by the Department of Health.

## Local Fiscal Highlights

- **Local boards of health.** There may be additional retail food establishments or food service operations that local boards of health may license and inspect. However, any costs would at least be partially offset by a licensing fee.
  - **Local taxing districts.** The issuance of A-1-A and A-3a liquor permits may result in a gain in liquor permit revenue for that local taxing district since they receive a portion of liquor permit fee revenue collected by the Division of Liquor Control.
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## Detailed Fiscal Analysis

### Overview

The bill increases the amount of spirituous liquor that an A-3a liquor permit holder may annually manufacture from less than 10,000 gallons to less than 100,000 gallons. Currently, a distiller that manufactures more than 10,000 gallons of spirituous liquor or more per year must obtain an A-3 liquor permit. The bill also allows an A-3a liquor permit holder to obtain an A-1-A liquor permit, which allows the holder to sell beer and any intoxicating liquor at retail, only by the individual drink in a glass or container, provided that the A-1-A permit premises is (1) situated on the same parcel or tract of land that is not more than 200 feet away from the related A-3a premises, or (2) separated from the parcel or tract of land of the A-3a permit premises only by public streets, highways, or by other lands owned by the permit holder. Under current law, an A-1-A permit holder must obtain a license as a retail food establishment or a food service operation pursuant to Ohio's Retail Food Establishments and Food Service Operations Law. The Division of Liquor Control (DOLC) within the Department of Commerce cannot issue a new A-1-A permit unless the sale of beer and intoxicating liquor under class D permits is permitted in the precinct in which the A-3a permit is located. The fiscal effects of the bill's provisions are described in more detail below.

### A-3a liquor permit

The fiscal effect on increasing the amount of spirituous liquor that an A-3a liquor permit holder may annually manufacture from less than 10,000 gallons to less than 100,000 gallons depends on how much spirituous liquor is manufactured by each permit holder. The fee for an A-3a liquor permit is \$2 per 50 gallon barrel. The fee for an A-3 liquor permit is \$3,906 unless the permit holder produces less than 500 barrels or 25,000 gallons annually. In these cases, the permit fee is \$2 per 50 gallon barrel. Therefore, if an A-3a liquor permit holder produces between 25,000 gallons (500 barrels) and 97,649 gallons (1,953 barrels) annually, it could result in a loss of liquor permit revenue. It would result in a loss because currently an A-3 liquor permit holder that produces between that much pays a liquor permit fee of \$3,906 (1,953 barrels x \$2/barrel). Under the bill, a distiller who produces between 25,000 and 97,649 gallons

could obtain an A-3a liquor permit and pay a liquor permit fee that ranges from \$1,000 to \$3,905.96 (\$2 per 50 gallon barrel).

Although it is improbable, there could be a gain in liquor permit fee revenue in situations where an A-3a liquor permit holder manufactures more than 97,650 gallons and less than 100,000 gallons annually. In these circumstances, the liquor permit fee would range from \$3,906 to \$4,000, a per permit gain of \$94.

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%).

### **A-1-A liquor permit**

The bill allows an A-3a liquor permit holder to obtain an A-1-A liquor permit which would allow the permit holder to sell beer and any intoxicating liquor at retail by the individual drink in a glass or container. An A-1-A liquor permit can only be issued if the precinct in which the A-3a permit is located allows the sale of beer and intoxicating liquor under class D liquor permits. The fee for the A-1-A permit is \$3,906. Currently, there are 31 A-3a liquor permit holders. If all precincts in which each permit is located allows the sale of beer and intoxicating liquor under class D liquor permits and each current A-3a liquor permit holder obtains an A-1-A permit, this may result in increased revenue of approximately \$121,000. The permit proceeds would be distributed as described above.

### **Retail food establishment or food service operation license**

If an A-3a liquor permit holder obtains an A-1-A liquor permit, the permit holder must also obtain a license as either a retail food establishment or a food service operation. Retail food establishments are regulated by the Department of Agriculture (AGR) and food service operations are regulated by the Department of Health (DOH). Additionally, local boards of health may act as the licensor under the authority of AGR or DOH. As a result, this may increase administrative costs for AGR, DOH, and local boards of health to process licenses and inspect facilities. However, any costs will at least be partially offset by the licensing fee. The fees are determined by the size and type of facility. If the local board of health is the licensor, the licensing fee will consist of a local fee and a state fee. State fees for the retail food establishment or a food service operation license are deposited into the Food Safety Fund (Fund 4P70) used by AGR or the General Operations Fund (Fund 4700) used by DOH.