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S.B. 195
133rd General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsor: Sen. Schaffer

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SUMMARY

- Regarding the retail food establishment license exemption for a small winery (A-2 or A-2f liquor permit holder) — which applies only when the winery sells commercially prepackaged food that constitutes 5% or less of sales — clarifies that commercially prepackaged food does not include wine.
- Requires the commercially prepackaged food to be unopened and specifies that the 5% threshold is based on the winery's sales in the previous year.
- Requires an owner or operator of a retail food establishment to display a notice informing guests that the establishment is not required to be licensed as a retail food establishment, rather than requiring the owner or operator to disclose to customers that the establishment is exempt from the license as under current law.

DETAILED ANALYSIS

Small wineries exemption

The bill revises the law exempting a small winery (A-2 or A-2f permit holder) that meets certain conditions from the requirement to be licensed as a retail food establishment. Under current law, a retail food establishment is an establishment that stores, processes, prepares, manufactures, or otherwise handles food for retail sale. Examples of retail food establishments are grocery stores and gas stations. A retail food establishment must be licensed to operate by a board of health with oversight by the Director of Agriculture.¹

Existing law exempts a small winery from licensure as a retail food establishment if the winery meets several conditions, including:

¹ R.C. 3717.01 and 3717.21, not in the bill.

- The winery serves commercially prepackaged food (including alcoholic beverages) in a form that prevents direct human contact prior to and during service; and
- The winery has sales of the prepackaged food that do not exceed 5% of the winery's total gross receipts.

The bill clarifies that, for purposes of the 5% threshold, commercially prepackaged food does not include wine. It also requires the commercially prepackaged food to be unopened and the 5% threshold to be based on the winery's sales in the previous year. Finally, it requires an owner or operator of a retail food establishment to display a notice in a place conspicuous to all guests informing them that the establishment is not required to be licensed as a retail food establishment. Current law requires an owner or operator to disclose to customers that the establishment is exempt from a retail food establishment license.²

HISTORY

Action	Date
Introduced	09-11-19
Reported, S. Agriculture & Natural Resources	12-04-19
Passed Senate (31-0)	12-11-19

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² R.C. 3717.22(B)(17).