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H.B. 669*
133rd General Assembly

Bill Analysis

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Version: As Reported by Senate Agriculture & Natural Resources

Primary Sponsors: Reps. Swearingen and LaRe

Jeff Grim, Research Analyst

SUMMARY

To-go sales

- Allows bars, restaurants, small breweries, micro-distilleries, and wineries (qualified permit holders) to sell alcoholic beverages in sealed, covered cups or other containers for off-premises consumption, including via delivery (drinks may include beer, wine, mixed beverages, or spirituous liquor).
- Specifies that a qualified permit holder may only sell alcoholic beverages for to-go purposes as follows:
 - In sealed, covered cups that the qualified permit holder is otherwise authorized to sell under the qualified permit holder's permit; and
 - If the permit holder also sells a meal with the alcoholic beverages.
- Prohibits a qualified permit holder from selling more than three alcoholic beverages to any individual per meal.
- Prior to delivering an alcoholic beverage to a personal consumer, requires a qualified permit holder, or a qualified permit holder's employee, to make an effort to ensure that the personal consumer is 21 or older.

Expansion of sales area of liquor permit premises

- Through December 31, 2022, allows a qualified permit holder to expand the area in which it may sell alcoholic beverages by the individual drink for on-premises consumption as follows:

* This analysis was prepared before the report of the Senate Agriculture and Natural Resources Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- In any area of the qualified permit holder's property in which sales are not currently authorized and that is outdoors, including the qualified permit holder's parking area;
 - In any outdoor area of public property that is immediately adjacent to the qualified permit holder's premises, if the permit holder obtains written consent from the local government that owns the property;
 - In any outdoor area of private property that is immediately adjacent to the qualified permit holder's premises, if the permit holder obtains the written consent of the owner of the private property.
- Requires the qualified permit holder to notify the Division of Liquor Control and the Investigative Unit of the Department of Public Safety ten days before the expansion.

Opened Container Law exemptions

- Exempts from the Opened Container Law both of the following:
 - An alcoholic beverage in a sealed, closed container being delivered in accordance with the bill to its final destination;
 - The consumption of an alcoholic beverage in an expanded outdoor area of a qualified permit holder.

Emergency declaration

- Declares an emergency.

DETAILED ANALYSIS

To-go sales

The bill allows bars, restaurants, breweries, micro-distilleries, and wineries (qualified permit holders) to sell alcoholic beverages to personal consumers in sealed, covered cups or other containers for off-premises consumption, including via delivery. The alcoholic beverages may include beer, wine, mixed beverages, or spirituous liquor. The qualified permit holder may only sell the alcoholic beverages when the permit holder sells a meal with the beverages. The qualified permit holder cannot sell more than three alcoholic beverages per meal to any individual.¹

The qualified permit holder may only sell alcoholic beverages that the qualified permit holder is otherwise authorized to sell under the qualified permit holder's permit. For example, a D-2 liquor permit holder may sell wine and mixed beverages. Under the bill, the D-2 permit holder could not sell to-go beer orders because the permit holder's permit does not authorize beer sales.

¹ R.C. 4303.185(A) and (B). A qualified permit holder is an A-1, A-1-A, A-1c, A-2, A-2f, A-3a, or D class liquor permit holder (see "**Background**," below).

Prior to delivering an alcoholic beverage to a personal consumer, the qualified permit holder, or a qualified permit holder's employee, must make a bona fide effort to ensure that the personal consumer is 21 or older. In order to make deliveries, a qualified permit holder may use an H liquor permit holder (shippers of alcoholic beverages).²

Expansion of sales area of liquor permit premises

Through December 31, 2022, the bill allows a qualified permit holder to expand the area in which it may sell alcoholic beverages as follows:

1. In any area of the qualified permit holder's property in which sales are not currently authorized and that is outdoors, including the qualified permit holder's parking area;
2. In any outdoor area of public property that is immediately adjacent to the qualified permit holder's premises, if the permit holder obtains written consent in accordance with the bill (see below);
3. In any outdoor area of private property that is immediately adjacent to the qualified permit holder's premises, if the permit holder obtains the written consent of the owner of the private property.

If a qualified permit holder sells alcoholic beverages in an outdoor area, the qualified permit holder must clearly delineate the area where personal consumers may consume alcoholic beverages. The bill also excludes the above expansions from the Division's existing authority to approve the expansion or diminution of a premises to which a liquor permit has been issued.³

Approval by public entities

For purposes of sales of alcoholic beverages in an outdoor area of public property discussed above, a qualified permit holder must obtain the written consent of either of the following:

1. If the public property is located in a municipal corporation, the executive officer of the municipal corporation or the executive officer's designee. If the executive officer or the executive officer's designee denies consent, the qualified permit holder may appeal the denial to the legislative authority of the municipal corporation. The legislative authority may adopt a resolution requesting the executive officer to reconsider the executive officer's denial.
2. If the public property is located in the unincorporated area of a township, the board of township trustees by the adoption of a resolution consenting to the sale of alcoholic beverages.⁴

² R.C. 4303.185(C)(1) to (3).

³ R.C. 4301.10(C) and Section 3(B) and 3(F).

⁴ Section 3(C).

Notification

The bill requires a qualified permit holder, at least ten days prior to selling alcoholic beverages by the individual drink in an outdoor area, to notify the Division of Liquor Control and Investigative Unit of the Department of Public Safety of the areas that the qualified permit holder intends to sell the alcoholic beverages.⁵

Opened Container Law exemptions

The bill exempts from the Opened Container Law both of the following:

1. An alcoholic beverage in a sealed, closed container being delivered in accordance with the bill to its final destination if the closed container is securely sealed in such a manner that is visibly apparent if the closed container has been subsequently opened or tampered with after sealing;
2. The consumption of an alcoholic beverage in an expanded outdoor area of a qualified permit holder.⁶

Background

Below is a list of permits referenced above, along with a description of the authorized activity under the permit.

Class of liquor permit ⁷	Authorized activity
A-1	Large brewery may sell its beer for on- or off-premises consumption.
A-1c	Craft brewery may sell its beer for on- or off-premises consumption.
A-1-A	Brewery, winery, or distillery may sell beer and any intoxicating liquor by glass or from a container; and a brewery may sell beer for off-premises consumption.
A-2	Winery may sell wine to personal consumers for on- or off-premises consumption and to wholesalers.
A-2f	Farm winery (same authorized activity as a winery, but winery grows grapes and other agricultural products).

⁵ Section 3(E).

⁶ R.C. 4301.62(H) and Section 3(D).

⁷ R.C. 4303.021 to 4303.183.

Class of liquor permit ⁷	Authorized activity
A-3a	Micro-distillery (less than 100,000 gallons a year) may sell to personal consumers a specified amount of spirituous liquor.
D-1	Restaurant or other specified entity may sell beer for on- or off-premises consumption.
D-2	Restaurant or other specified entity may sell wine or certain mixed beverages for on- or off-premises consumption.
D-3	Restaurant or other specified entity may sell spirituous liquor for on-premises consumption until 1:00 a.m.
D-3a	D-3 permit holder may sell until 2:30 a.m.
D-4	Club may sell beer or intoxicating liquor to members only for on-premises consumption, until 1:00 a.m.
D-4a	D-4 permit holder may sell until 2:30 a.m.
D-5	Restaurant or night club may sell beer or intoxicating liquor for on- or off-premises consumption until 2:30 a.m.
D-5a to D-5o	Various establishments may sell beer or intoxicating liquor for on- or off-premises consumption, depending on the circumstances until 1:00 or 2:30 a.m.
D-7	Restaurant or other specified entity in a resort area may sell beer or intoxicating liquor for on-premises consumption until 2:30 a.m.

HISTORY

Action	Date
Introduced	05-20-20
Reported House Commerce & Labor	06-10-20
Passed House (87-8)	06-10-20
Reported Senate Agriculture & Natural Resources	---

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