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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**H.B. 237**  
**133<sup>rd</sup> General Assembly**

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Rep. Upchurch

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### SUMMARY

- Allows spirituous liquor distillers and mixed beverage manufacturers to ship their products to Ohio residents for personal consumption.
- Requires an Ohio-based distiller to take orders for shipment only via the telephone or distiller's website.
- In order to ship spirituous liquor or mixed beverages, requires a distiller or mixed beverage manufacturer to obtain an S liquor permit and do both of the following:
  - Collect and pay all applicable state taxes relating to the delivery of spirituous liquor or mixed beverages to a personal consumer; and
  - Keep shipping records to personal consumers for purposes of taxation, tracking of sales for the Division of Liquor Control, and recalls.
- Establishes requirements (similar to those that apply to small distillers) that allow large distillers to sell spirituous liquor to personal consumers as independent contractors of the Division.

### DETAILED ANALYSIS

#### **Sale and shipment of spirituous liquor and mixed beverages**

The bill allows distillers of spirituous liquor and mixed beverage manufacturers to ship their products to Ohio residents (who are 21 or older) for personal consumption. An Ohio-based distiller (A-3 or A-3a liquor permit holder) must conduct these sales via telephone orders or the distiller's website in accordance with rules that the Liquor Control Commission must

adopt. A small distiller (A-3a permit holder) may continue to sell to personal consumers via in-person transactions.<sup>1</sup>

Under current law, spirituous liquor includes all intoxicating liquors containing more than 21% alcohol by volume (ABV). Mixed beverages are bottled and prepared cordials, cocktails, highballs, and solids and confections that are obtained by mixing any type of whiskey, neutral spirits, brandy, gin, or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product must contain between 0.5% and 21% ABV.<sup>2</sup>

### **Required S liquor permit**

In order to ship spirituous liquor or mixed beverages, a distiller or mixed beverage manufacturer must obtain an S liquor permit. As an S permit holder, a distiller or manufacturer must do both of the following:

1. Collect and pay all applicable state taxes relating to the delivery of spirituous liquor or mixed beverages to a personal consumer; and
2. Keep shipping records to personal consumers for purposes of taxation, tracking of sales for the Division of Liquor Control, and recalls.<sup>3</sup>

Current law allows certain agents and brand owners of beer or wine and small wineries to ship beer or wine to a person who is 21 or older via an S permit. An S permit holder must pay a \$25 permit fee and comply with requirements governing recordkeeping, collection and payment of beer or wine taxes, and shipping beer or wine through an H liquor permit holder.<sup>4</sup>

### **Sale of spirituous liquor by large distillers**

Current law only allows agency stores (for example, a liquor store located in a grocery store) and small distillers to sell bottles of spirituous liquor to personal consumers for off-premises consumption. (Large distillers [A-3 permit holders] and mixed beverage manufacturers [A-4 permit holders] are not permitted to sell directly to consumers.) It also establishes requirements for small distillers to make such sales as an independent contractor of the Division of Liquor Control. These requirements include limiting a small distiller to selling four spirituous liquor bottles to a single personal consumer per day.<sup>5</sup>

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<sup>1</sup> R.C. 4303.04, 4303.41, 4303.042, and 4303.232.

<sup>2</sup> R.C. 4301.01(B)(3) and (5), not in the bill.

<sup>3</sup> R.C. 4303.232(C)(3) and (4) and (D)(3).

<sup>4</sup> R.C. 4303.232.

<sup>5</sup> R.C. 4303.041. H.B. 160 of the 133<sup>rd</sup> General Assembly (effective October 13, 2020) increased the bottle limit from two to four.

Similar to existing requirements for small distillers, the bill establishes requirements that allow large distillers to sell spirituous liquor to personal consumers as independent contractors of the Division.<sup>6</sup>

### **Corrections to current law**

Current law includes several erroneous references to mixed beverages being not less than 4% ABV. As indicated above, by definition, mixed beverages include products between 0.5% and 21% ABV. The bill corrects these references.<sup>7</sup>

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## **HISTORY**

<b>Action</b>	<b>Date</b>
Introduced	05-07-19

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H0237-I-133/ts

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<sup>6</sup> R.C. 4303.04(B).

<sup>7</sup> R.C. 4301.01(B)(3), not in the bill. The bill makes corrections to R.C. 4303.05, 4303.09, and 4303.12.