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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 685  
136<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Lett and Schmidt

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### SUMMARY

- Requires certain liquor permit holders that are authorized to sell beer or intoxicating liquor for on-premises consumption to perform specified tasks related to drink drug testing devices, including providing a testing device for free or at minimum cost.
- States that a qualified permit holder is not liable for a defective test or inaccurate test result of a drink drug testing device, including a false positive or false negative test result.
- Authorizes the Division of Liquor Control to establish a mechanism for consumers and certain liquor permit holders to voluntarily report positive results from drink drug testing devices.
- Requires the Division, if it establishes a reporting mechanism, to perform specified tasks regarding any data collected, including aggregating the data and analyzing the data for trend analysis, public safety assessments, and prevention efforts.

### DETAILED ANALYSIS

#### Drink drug testing devices

The bill requires a qualified liquor permit holder (generally bars, restaurants, breweries, and wineries, see **“Liquor permit holders subject to the bill’s requirements,”** below) to provide drink drug testing devices to patrons in accordance with the bill’s provisions. Under the bill, a drink drug testing device is a device that does all of the following:

- Utilizes test strips or similar technologies to detect the presence of drugs in beer or intoxicating liquor;
- Is capable of detecting the presence of at least ten controlled substances (which are drugs, compounds, mixtures, preparations, or substances included in Schedule I, II, III, IV, or V);

- Is capable of providing results in up to five minutes after beer or intoxicating liquor is tested by the device; and
- Is manufactured in the U.S. or its territories.

In order to comply with the bill's requirements, a qualified liquor permit holder must do all of the following:

1. Post a notice in a prominent and conspicuous location that informs customers of the availability of a drink drug testing device (see below);
2. Provide a drink drug testing device for free or at a cost not to exceed a reasonable amount based on the wholesale cost of those devices; and
3. Ensure that all drink drug testing devices offered to customers have not exceeded their expiration dates or recommended periods of use, according to the product label.

The bill states that a qualified permit holder is not liable for a defective test or inaccurate test result of a drink drug testing device, including a false positive or false negative test result.<sup>1</sup>

## **Enforcement**

The bill does not establish penalties for violating the above requirements. However, the Liquor Control Commission may revoke or suspend a liquor permit holder's permit for a violation of the bill's provisions under existing law. That law authorizes the Commission to take such actions when a permit holder violates any restriction specified under the liquor control laws.<sup>2</sup>

## **Report on positive test results**

The bill authorizes the Division of Liquor Control to establish a mechanism for consumers and qualified liquor permit holders to voluntarily report positive results from drink drug testing devices. If the Division establishes a reporting mechanism, the Division must do all of the following regarding any data collected:

1. Eliminate any personal identifying information relating to the consumer or qualified permit holder that reported the information;
2. Aggregate the data;
3. Analyze the data for trend analysis, public safety assessments, and prevention efforts; and
4. Ensure that the data is publicly accessible.

The bill prohibits the Division from using the data as the basis for any enforcement actions against a liquor permit holder.<sup>3</sup>

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<sup>1</sup> R.C. 4301.73.

<sup>2</sup> R.C. 4301.25, not in the bill.

<sup>3</sup> R.C. 4301.731.

## Liquor permit holders subject to the bill's requirements

Below is a list of liquor permits to which the bill's drink drug testing requirements apply. The list includes a description of each permit.

Class of liquor permit <sup>4</sup>	Authorized activity
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.
D class	Bars, restaurants, or clubs may sell beer, wine, mixed beverages, or spirituous liquor, or a combination of those alcoholic beverages for on- or off-premises consumption, or both.

## HISTORY

Action	Date
Introduced	02-10-26

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<sup>4</sup> R.C. 4303.021 to 4303.183, not in the bill.