

As Passed by the Senate

126th General Assembly

Regular Session

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Sub. H. B. No. 140

**Representatives Carmichael, D. Stewart, Setzer, T. Patton, Barrett, Beatty,
Blasdel, Brown, Buehrer, Carano, Cassell, Chandler, Coley, DeGeeter,
Domenick, D. Evans, Faber, Harwood, Hughes, Key, McGregor, Otterman,
Perry, Seaver, Seitz, Yuko, Trakas
Senators Austria, Mumper, Niehaus, Schuler**

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A B I L L

To amend section 4301.252 and to enact section 1
4303.251 of the Revised Code to authorize the 2
Liquor Control Commission to issue an order 3
allowing a permit holder to pay a forfeiture 4
rather than have the holder's permit revoked and 5
to authorize entities involved in the manufacture 6
or distribution of beer or intoxicating liquor to 7
conduct consumer product instruction, or provide 8
sample servings of their products, at a retail 9
permit holder's premises without having to obtain 10
a retail liquor permit. 11

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4301.252 be amended and section 12
4303.251 of the Revised Code be enacted to read as follows: 13

Sec. 4301.252. (A)(1) Except as provided in divisions 14
(A)(2)(d), (B), and (C) of this section, when the liquor control 15
commission determines that the permit of any permit holder is to 16

be suspended under Title XLIII of the Revised Code or any rule of 17
the commission, the commission may issue an order allowing a 18
permit holder to elect to pay a forfeiture for each day of the 19
suspension in accordance with division (A)(2) of this section, 20
rather than to suspend operations under the permit holder's permit 21
issued for the premises at which the violation occurred. 22

(2)(a) If the permit holder has not violated, at the premises 23
for which the permit holder's permit was issued, any provision of 24
Title XLIII of the Revised Code or rule of the commission during 25
the preceding two years, the amount of the forfeiture for each day 26
for the suspension shall be from one hundred to two hundred 27
dollars. 28

(b) If the permit holder has violated, at the premises for 29
which the permit holder's permit was issued, any provision of 30
Title XLIII of the Revised Code or rule of the commission for 31
which the permit holder has been disciplined by the commission not 32
more than one other time during the preceding two years, the 33
amount of the forfeiture for each day of the suspension shall be 34
from two hundred to four hundred dollars. 35

(c) Except as provided under division (A)(2)(e) of this 36
section, if the permit holder has violated, at the premises for 37
which the permit holder's permit was issued, any provision of 38
Title XLIII of the Revised Code or rule of the commission for 39
which the permit holder has been disciplined by the commission 40
more than once, but not more than twice, during the preceding two 41
years, the commission shall establish the amount of the forfeiture 42
for each day of the suspension, but the amount shall be not less 43
than three hundred dollars for each day of suspension. 44

(d) If the permit holder has violated, at the premises for 45
which the permit holder's permit was issued, any provision of 46
Title XLIII of the Revised Code or rule of the commission for 47
which the permit holder has been disciplined by the commission 48

more than twice during the preceding two years, the commission may
suspend or revoke the permit issued for the premises at which the
violation occurred, or the commission shall establish the amount
of the forfeiture for each day of a suspension, but the amount
shall not be less than five hundred dollars for each day of
suspension. The commission, and not the permit holder, shall
determine whether the permit holder shall pay the forfeiture so
established for a suspension instead of having the permit holder's
permit suspended or revoked.

(e) If the permit holder has committed, at the premises for
which the permit holder's permit was issued, a gambling offense as
defined in section 2915.01, a drug abuse offense as defined in
section 2925.01, or an offense described in section 2907.07,
2907.21, 2907.22, 2907.23, 2907.24, or 2907.25, division (A) or
(B) of section 4301.22, or section 4301.69 of the Revised Code or
a municipal ordinance substantially equivalent to any offense
defined or described in a section or division listed in division
(A)(2)(e) of this section for which the permit holder has been
disciplined by the commission more than once, but not more than
twice, during the preceding two years, the commission may suspend
or revoke the permit issued for the premises at which the
violation occurred. A person does not have to plead guilty to or
be convicted of an offense defined or described in a section or
division listed in division (A)(2)(e) of this section in order for
this division to apply.

(3) When the commission issues an order allowing a permit
holder the option of paying a forfeiture rather than suspending
operations under the permit holder's permit issued for the
premises at which the violation occurred, the order shall notify
the permit holder of the option of paying a forfeiture. The order
shall state the number of days for which the permit may be
suspended, that the permit holder has twenty-one days after the

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date on which the order is sent to pay the full amount of the
forfeiture by bank check, certified check, or money order, and
that, if the permit holder does not do so, the permit holder's
permit issued for the premises at which the violation occurred
shall be suspended for the period stated in the order. If the
permit holder fails to pay the full amount of the forfeiture by
bank check, certified check, or money order within twenty-one days
after the date on which the order is sent, the commission shall
issue an order suspending the permit holder's permit issued for
the premises at which the violation occurred for the period stated
in the order allowing payment of a forfeiture. The suspension
shall be effective on the twenty-eighth day after the date on
which the order allowing the payment of a forfeiture is sent. Even
a permit holder who pays a forfeiture may file an appeal under
section 119.12 of the Revised Code. A permit holder shall be
considered to have paid a forfeiture when the permit holder's bank
check, certified check, or money order is received by the
commission in Columbus. Upon receipt of a permit holder's bank
check, certified check, or money order under this division, the
commission shall promptly notify the division of liquor control of
its receipt.

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(B) No permit holder shall be permitted to pay a forfeiture
instead of having the permit holder's permit issued for the
premises at which the violation occurred suspended if the
suspension is ordered for the reasons stated in division (A)(6) of
section 4301.25 of the Revised Code.

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(C) When the evidence and the nature of any violation of
Title XLIII of the Revised Code show that continued operation of
the permit premises presents a clear and present danger to public
health and safety, or if the commission finds, upon reliable,
probative, and substantial evidence, that the statutory elements
of a felony committed in connection with the operation of the

permit premises are present in the action for which the permit
holder is being disciplined, the commission may suspend the permit
issued for the premises at which the violation occurred and shall
not allow the permit holder to pay a forfeiture instead of
suspending the permit holder's permit operations.

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(D) Except as provided in this division, when the commission
determines that the permit of any permit holder is to be revoked
under Title XLIII of the Revised Code or any rule of the
commission, the commission may issue an order allowing a permit
holder to elect to pay a forfeiture rather than to revoke the
permit holder's permit issued for the premises at which the
violation occurred.

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When the commission issues an order allowing a permit holder
the option of paying a forfeiture rather than revoking the permit
holder's permit, the order shall notify the permit holder of the
option of paying a forfeiture. The order shall state the effective
date of the revocation of the permit holder's permit as
twenty-eight days after the date on which the order is sent, that
the permit holder has twenty-one days after the date on which the
order is sent to pay the full amount of the forfeiture by bank
check, certified check, or money order, and that, if the permit
holder does not do so, the permit holder's permit issued for the
premises at which the violation occurred shall be revoked on the
effective date stated in the order. If the permit holder fails to
pay the full amount of the forfeiture by bank check, certified
check, or money order within twenty-one days after the date on
which the order is sent, the commission shall issue an order
revoking the permit holder's permit issued for the premises at
which the violation occurred. The revocation shall be effective on
the twenty-eighth day after the date on which the order allowing
the payment of a forfeiture is sent. A permit holder shall be
considered to have paid a forfeiture when the permit holder's bank

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check, certified check, or money order is received by the 145
commission in Columbus. Upon receipt of a permit holder's bank 146
check, certified check, or money order, the commission shall 147
promptly notify the division of liquor control of its receipt. 148

When the evidence and the nature of any violation of Title 149
XLIII of the Revised Code show that continued operation of the 150
permit premises presents a clear and present danger to public 151
health and safety, or if the commission finds, upon reliable, 152
probative, and substantial evidence, that the statutory elements 153
of a felony committed in connection with the operation of the 154
permit premises are present in the action for which the permit 155
holder is being disciplined, the commission may revoke the permit 156
issued for the premises at which the violation occurred and shall 157
not allow the permit holder to pay a forfeiture instead of 158
revoking the permit holder's permit. 159

No permit holder shall be permitted to pay a forfeiture 160
instead of having the permit holder's permit issued for the 161
premises at which the violation occurred revoked if the revocation 162
is ordered for the reasons stated in division (A)(6) or (B) of 163
section 4301.25 of the Revised Code. 164

Sec. 4303.251. A manufacturer, supplier, broker, or wholesale 165
distributor of beer or intoxicating liquor, or an agent, 166
solicitor, or salesperson who is registered under section 4303.25 167
of the Revised Code and who represents the manufacturer, supplier, 168
broker, or wholesale distributor of beer or intoxicating liquor, 169
may conduct consumer product instruction, or provide sample 170
servings of the manufacturer's, supplier's, broker's, or wholesale 171
distributor's products, on the premises of a retail permit holder 172
who is authorized to sell the products for on-premises 173
consumption, without the manufacturer, supplier, broker, wholesale 174
distributor, agent, solicitor, or salesperson having to be issued 175

a retail permit under this chapter. The person providing a sample 176
selling shall purchase the beer or intoxicating liquor at the 177
ordinary retail price from the retail permit holder whose premises 178
are involved. The liquor control commission shall adopt rules in 179
accordance with Chapter 119. of the Revised Code to implement this 180
section. 181

Section 2. That existing section 4301.252 of the Revised Code 182
is hereby repealed. 183