

As Passed by the House

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Am. Sub. S. B. No. 102

Senator Schuler

**Cosponsors: Senators Spada, Niehaus, Miller, D., Kearney, Clancy, Mumper
Representatives Seitz, Schneider, Carmichael, Stewart, D., Driehaus,
Blessing, Daniels, Domenick, Dyer, Flowers, Hagan, R., Harwood, Huffman,
Hughes, Letson, Luckie, Mallory, McGregor, J., Otterman, Raussen,
Wagoner, Yuko**

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A B I L L

To amend sections 4301.17 and 4303.99 and to enact 1
section 4303.208 of the Revised Code to authorize 2
the F-8 liquor permit to be issued to certain 3
nonprofit organizations to allow the sale of beer 4
and intoxicating liquor at specific events that 5
occur on public space that the organization 6
manages, to change the population quota for state 7
agency stores, and to declare an emergency. 8

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

Section 1. That sections 4301.17 and 4303.99 be amended and 9
section 4303.208 of the Revised Code be enacted to read as 10
follows: 11

Sec. 4301.17. (A)(1) Subject to local option as provided in 12
sections 4301.32 to 4301.40 of the Revised Code, five state liquor 13
stores or agencies may be established in each county. One 14
additional store may be established in any county for each 15

~~twenty-five~~ twenty thousand of population of that county or major
fraction thereof in excess of the first forty thousand, according
to the last preceding federal decennial census or according to the
population estimates certified by the department of development
between decennial censuses. A person engaged in a mercantile
business may act as the agent for the division of liquor control
for the sale of spirituous liquor in a municipal corporation, in
the unincorporated area of a township, or in an area designated
and approved as a resort area under section 4303.262 of the
Revised Code. The division shall fix the compensation for such an
agent in the manner it considers best, but the compensation shall
not exceed seven per cent of the gross sales made by the agent in
any one year.

(2) The division shall adopt rules in accordance with Chapter
119. of the Revised Code governing the allocation and equitable
distribution of agency store contracts. The division shall comply
with the rules when awarding a contract under division (A)(1) of
this section.

(3) Except as otherwise provided in this section, no
mercantile business that sells beer or intoxicating liquor for
consumption on the premises under a permit issued by the division
shall operate an agency store at the premises. An agency to which
a D-1 permit has been issued may offer for sale tasting samples of
beer, an agency to which a D-2 permit has been issued may offer
for sale tasting samples of wine and mixed beverages, and an
agency to which a D-5 permit has been issued may offer for sale
tasting samples of beer, wine, and mixed beverages, but not
spirituous liquor. A tasting sample shall not be sold for the
purpose of general consumption. As used in this section, "tasting
sample" means a small amount of beer, wine, or mixed beverages
that is provided in not more than four servings of not more than
two ounces each to an authorized purchaser and that allows the

purchaser to determine, by tasting only, the quality and character 48
of the beverage. 49

(B) When an agency contract is proposed, when an existing 50
agency contract is assigned, when an existing agency proposes to 51
relocate, or when an existing agency is relocated and assigned, 52
before entering into any contract, consenting to any assignment, 53
or consenting to any relocation, the division shall notify the 54
legislative authority of the municipal corporation in which the 55
agency store is to be located, or the board of county 56
commissioners and the board of township trustees of the county and 57
the township in which the agency store is to be located if the 58
agency store is to be located outside the corporate limits of a 59
municipal corporation, of the proposed contract, assignment, or 60
relocation, and an opportunity shall be provided officials or 61
employees of the municipal corporation or county and township for 62
a complete hearing upon the advisability of entering into the 63
contract or consenting to the assignment or relocation. When the 64
division sends notice to the legislative authority of the 65
political subdivision, the division shall notify, by certified 66
mail or by personal service, the chief peace officer of the 67
political subdivision, who may appear and testify, either in 68
person or through a representative, at any hearing held on the 69
advisability of entering into the contract or consenting to the 70
assignment or relocation. 71

If the proposed agency store, the assignment of an agency 72
contract, or the relocation of an agency store would be located 73
within five hundred feet of a school, church, library, public 74
playground, or township park, the division shall not enter into an 75
agency contract until it has provided notice of the proposed 76
contract to the authorities in control of the school, church, 77
library, public playground, or township park and has provided 78
those authorities with an opportunity for a complete hearing upon 79

the advisability of entering into the contract. If an agency store 80
so located is operating under an agency contract, the division may 81
consent to relocation of the agency store or to the assignment of 82
that contract to operate an agency store at the same location. The 83
division may also consent to the assignment of an existing agency 84
contract simultaneously with the relocation of the agency store. 85
In any such assignment or relocation, the assignee and the 86
location shall be subject to the same requirements that the 87
existing location met at the time that the contract was first 88
entered into as well as any additional requirements imposed by the 89
division in rules adopted by the superintendent of liquor control. 90
The division shall not consent to an assignment or relocation of 91
an agency store until it has notified the authorities in control 92
of the school, church, library, public playground, or township 93
park and has provided those authorities with an opportunity for a 94
complete hearing upon the advisability of consenting to the 95
assignment or relocation. 96

Any hearing provided for in this division shall be held in 97
the central office of the division, except that upon written 98
request of the legislative authority of the municipal corporation, 99
the board of county commissioners, the board of township trustees, 100
or the authorities in control of the school, church, library, 101
public playground, or township park, the hearing shall be held in 102
the county seat of the county where the proposed agency store is 103
to be located. 104

(C) All agency contracts entered into by the division 105
pursuant to this section shall be in writing and shall contain a 106
clause providing for the termination of the contract at will by 107
the division upon its giving ninety days' notice in writing to the 108
agent of its intention to do so. Any agency contract may include a 109
clause requiring the agent to report to the appropriate law 110
enforcement agency the name and address of any individual under 111

twenty-one years of age who attempts to make an illegal purchase. 112

An agent may engage in the selling of beer, mixed beverages, 113
and wine pursuant to permits issued to the agent under Chapter 114
4303. of the Revised Code. 115

The division shall issue a C-1 and C-2 permit to each agent 116
who prior to November 1, 1994, had not been issued both of these 117
permits, notwithstanding the population quota restrictions 118
contained in section 4303.29 of the Revised Code or in any rule of 119
the liquor control commission and notwithstanding the requirements 120
of section 4303.31 of the Revised Code. The location of a C-1 or 121
C-2 permit issued to such an agent shall not be transferred. The 122
division shall revoke any C-1 or C-2 permit issued to an agent 123
under this paragraph if the agent no longer operates an agency 124
store. 125

The division may enter into agreements with the department of 126
development to implement a minority loan program to provide 127
low-interest loans to minority business enterprises, as defined in 128
section 122.71 of the Revised Code, that are awarded liquor agency 129
contracts or assignments. 130

(D) If the division closes a state liquor store and replaces 131
that store with an agency store, any employees of the division 132
employed at that state liquor store who lose their jobs at that 133
store as a result shall be given preference by the agent who 134
operates the agency store in filling any vacancies that occur 135
among the agent's employees, if that preference does not conflict 136
with the agent's obligations pursuant to a collective bargaining 137
agreement. 138

If the division closes a state liquor store and replaces the 139
store with an agency store, any employees of the division employed 140
at the state liquor store who lose their jobs at that store as a 141
result may displace other employees as provided in sections 142

124.321 to 124.328 of the Revised Code. If an employee cannot 143
displace other employees and is laid off, the employee shall be 144
reinstated in another job as provided in sections 124.321 to 145
124.328 of the Revised Code, except that the employee's rights of 146
reinstatement in a job at a state liquor store shall continue for 147
a period of two years after the date of the employee's layoff and 148
shall apply to jobs at state liquor stores located in the 149
employee's layoff jurisdiction and any layoff jurisdiction 150
adjacent to the employee's layoff jurisdiction. 151

(E) The division shall require every agent to give bond with 152
surety to the satisfaction of the division, in the amount the 153
division fixes, conditioned for the faithful performance of the 154
agent's duties as prescribed by the division. 155

Sec. 4303.208. (A)(1) The division of liquor control may 156
issue an F-8 permit to a not-for-profit organization that manages, 157
for the benefit of the public and by contract with a political 158
subdivision of this state, publicly owned property to sell beer or 159
intoxicating liquor by the individual drink at specific events 160
conducted on the publicly owned property and appurtenant streets, 161
but only if, and then only at times at which, the sale of beer and 162
intoxicating liquor on the premises is otherwise permitted by law. 163
Additionally, an F-8 permit may be issued only if the publicly 164
owned property is located in a county that has a population of 165
between seven hundred fifty thousand and nine hundred thousand on 166
the effective date of this section. 167

(2) The premises on which an F-8 permit will be used shall be 168
clearly defined and sufficiently restricted to allow proper 169
supervision of the permit's use by state and local law enforcement 170
officers. Sales under an F-8 permit shall be confined to the same 171
hours permitted to the holder of a D-3 permit. 172

(3) The fee for an F-8 permit is one thousand seven hundred 173

dollars. An F-8 permit is effective for a period not to exceed 174
nine months as specified in the permit. An F-8 permit is not 175
transferable or renewable. However, the holder of an F-8 permit 176
may apply for a new F-8 permit at any time. An F-8 permit is not 177
effective until any F-8 permit currently held expires. The holder 178
of an F-8 permit shall make sales only at those specific events 179
about which the permit holder has notified in advance the division 180
of liquor control, the department of public safety, and the chief, 181
sheriff, or other principal peace officer of the local law 182
enforcement agencies having jurisdiction over the premises. 183

(B)(1) An application for the issuance of an F-8 permit is 184
subject to the notice and hearing requirements established in 185
division (A) of section 4303.26 of the Revised Code. 186

(2) The liquor control commission shall adopt under Chapter 187
119. of the Revised Code rules necessary to administer this 188
section. 189

(C) No F-8 permit holder shall sell beer or intoxicating 190
liquor beyond the hours of sale allowed by the permit. This 191
division imposes strict liability on the holder of an F-8 permit 192
and on any officer, agent, or employee of that permit holder. 193

Sec. 4303.99. (A) Whoever violates section 4303.28 of the 194
Revised Code shall be fined not less than one thousand nor more 195
than twenty-five hundred dollars or imprisoned not less than six 196
months nor more than one year. 197

(B) Whoever violates section 4303.36 of the Revised Code 198
shall be fined not less than twenty-five nor more than one hundred 199
dollars. 200

(C) Whoever violates section 4303.37 of the Revised Code 201
shall be fined not less than twenty-five nor more than fifty 202
dollars. 203

(D) Whoever violates division (B) of section 4303.202 or 204
division (C) of section 4303.208 of the Revised Code is guilty of 205
a misdemeanor of the fourth degree. 206

Section 2. That existing sections 4301.17 and 4303.99 of the 207
Revised Code are hereby repealed. 208

Section 3. This act is hereby declared to be an emergency 209
measure necessary for the immediate preservation of the public 210
peace, health, and safety. The reason for such necessity lies in 211
the fact that the summer festival season is fast approaching and 212
the implementation of the issuance of the F-8 permit needs to be 213
expedited so that the permit can be issued during this summer 214
season. Therefore, this act shall go into immediate effect. 215