

As Reported by the Senate Agriculture Committee

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S. B. No. 150

Senator Roberts

Cosponsors: Senators Fedor, Boccieri, Miller, D., Kearney, Schuler

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A B I L L

To amend sections 4301.10 and 4301.639 of the Revised Code to authorize liquor permit holders to accept military identification cards that contain a picture and age data as proof of a purchaser's age in order to qualify for a specified affirmative defense, and to require the Division of Liquor Control to provide retail permit holders with a notice of the permissible forms of identification for purposes of qualifying for that affirmative defense. 1

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

Section 1. That sections 4301.10 and 4301.639 of the Revised Code be amended to read as follows: 11

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Sec. 4301.10. (A) The division of liquor control shall do all of the following: 13

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(1) Control the traffic in beer and intoxicating liquor in this state, including the manufacture, importation, and sale of beer and intoxicating liquor; 15

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(2) Grant or refuse permits for the manufacture, distribution, transportation, and sale of beer and intoxicating 18

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liquor and the sale of alcohol, as authorized or required by this 20
chapter and Chapter 4303. of the Revised Code. A certificate, 21
signed by the superintendent of liquor control and to which is 22
affixed the official seal of the division, stating that it appears 23
from the records of the division that no permit has been issued to 24
the person specified in the certificate, or that a permit, if 25
issued, has been revoked, canceled, or suspended, shall be 26
received as prima-facie evidence of the facts recited in the 27
certificate in any court or before any officer of this state. 28

(3) Put into operation, manage, and control a system of state 29
liquor stores for the sale of spirituous liquor at retail and to 30
holders of permits authorizing the sale of spirituous liquor; 31
however, the division shall not establish any drive-in state 32
liquor stores; and by means of those types of stores, and any 33
manufacturing plants, distributing and bottling plants, 34
warehouses, and other facilities that it considers expedient, 35
establish and maintain a state monopoly of the distribution of 36
spirituous liquor and its sale in packages or containers; and for 37
that purpose, manufacture, buy, import, possess, and sell 38
spirituous liquors as provided in this chapter and Chapter 4303. 39
of the Revised Code, and in the rules promulgated by the 40
superintendent of liquor control pursuant to those chapters; lease 41
or in any manner acquire the use of any land or building required 42
for any of those purposes; purchase any equipment that is 43
required; and borrow money to carry on its business, and issue, 44
sign, endorse, and accept notes, checks, and bills of exchange; 45
but all obligations of the division created under authority of 46
this division shall be a charge only upon the moneys received by 47
the division from the sale of spirituous liquor and its other 48
business transactions in connection with the sale of spirituous 49
liquor, and shall not be general obligations of the state; 50

(4) Enforce the administrative provisions of this chapter and 51

Chapter 4303. of the Revised Code, and the rules and orders of the liquor control commission and the superintendent relating to the manufacture, importation, transportation, distribution, and sale of beer or intoxicating liquor. The attorney general, any prosecuting attorney, and any prosecuting officer of a municipal corporation or a municipal court shall, at the request of the division of liquor control or the department of public safety, prosecute any person charged with the violation of any provision in those chapters or of any section of the Revised Code relating to the manufacture, importation, transportation, distribution, and sale of beer or intoxicating liquor.

(5) Determine the locations of all state liquor stores and manufacturing, distributing, and bottling plants required in connection with those stores, subject to this chapter and Chapter 4303. of the Revised Code;

(6) Conduct inspections of liquor permit premises to determine compliance with the administrative provisions of this chapter and Chapter 4303. of the Revised Code and the rules adopted under those provisions by the liquor control commission.

Except as otherwise provided in division (A)(6) of this section, those inspections may be conducted only during those hours in which the permit holder is open for business and only by authorized agents or employees of the division or by any peace officer, as defined in section 2935.01 of the Revised Code. Inspections may be conducted at other hours only to determine compliance with laws or commission rules that regulate the hours of sale of beer or intoxicating liquor and only if the investigator has reasonable cause to believe that those laws or rules are being violated. Any inspection conducted pursuant to division (A)(6) of this section is subject to all of the following requirements:

(a) The only property that may be confiscated is contraband,

as defined in section 2901.01 of the Revised Code, or property 84
that is otherwise necessary for evidentiary purposes. 85

(b) A complete inventory of all property confiscated from the 86
premises shall be given to the permit holder or the permit 87
holder's agent or employee by the confiscating agent or officer at 88
the conclusion of the inspection. At that time, the inventory 89
shall be signed by the confiscating agent or officer, and the 90
agent or officer shall give the permit holder or the permit 91
holder's agent or employee the opportunity to sign the inventory. 92

(c) Inspections conducted pursuant to division (A)(6) of this 93
section shall be conducted in a reasonable manner. A finding by 94
any court of competent jurisdiction that an inspection was not 95
conducted in a reasonable manner in accordance with this section 96
or any rules adopted by the commission may be considered grounds 97
for suppression of evidence. A finding by the commission that an 98
inspection was not conducted in a reasonable manner in accordance 99
with this section or any rules adopted by it may be considered 100
grounds for dismissal of the commission case. 101

If any court of competent jurisdiction finds that property 102
confiscated as the result of an administrative inspection is not 103
necessary for evidentiary purposes and is not contraband, as 104
defined in section 2901.01 of the Revised Code, the court shall 105
order the immediate return of the confiscated property, provided 106
that property is not otherwise subject to forfeiture, to the 107
permit holder. However, the return of this property is not grounds 108
for dismissal of the case. The commission likewise may order the 109
return of confiscated property if no criminal prosecution is 110
pending or anticipated. 111

(7) Delegate to any of its agents or employees any power of 112
investigation that the division possesses with respect to the 113
enforcement of any of the administrative laws relating to beer or 114
intoxicating liquor, provided that this division does not 115

authorize the division to designate any agent or employee to serve 116
as an enforcement agent. The employment and designation of 117
enforcement agents shall be within the exclusive authority of the 118
director of public safety pursuant to sections 5502.13 to 5502.19 119
of the Revised Code. 120

(8) Collect the following fees: 121

(a) A biennial fifty-dollar registration fee for each agent, 122
solicitor, or salesperson, registered pursuant to section 4303.25 123
of the Revised Code, of a beer or intoxicating liquor 124
manufacturer, supplier, broker, or wholesale distributor doing 125
business in this state; 126

(b) A fifty-dollar product registration fee for each new beer 127
or intoxicating liquor product sold in this state. The product 128
registration fee shall be accompanied by a copy of the federal 129
label and product approval for the new product. 130

(c) An annual three-hundred-dollar supplier registration fee 131
from each manufacturer or supplier that produces and ships into 132
this state, or ships into this state, intoxicating liquor or beer, 133
in addition to an initial application fee of one hundred dollars. 134

Each supplier, agent, solicitor, or salesperson registration 135
issued under this division shall authorize the person named to 136
carry on the activity specified in the registration. Each agent, 137
solicitor, or salesperson registration is valid for two years or 138
for the unexpired portion of a two-year registration period. Each 139
supplier registration is valid for one year or for the unexpired 140
portion of a one-year registration period. Registrations shall end 141
on their respective uniform expiration date, which shall be 142
designated by the division, and are subject to suspension, 143
revocation, cancellation, or fine as authorized by this chapter 144
and Chapter 4303. of the Revised Code. 145

(9) Establish a system of electronic data interchange within 146

the division and regulate the electronic transfer of information	147
and funds among persons and governmental entities engaged in the	148
manufacture, distribution, and retail sale of alcoholic beverages;	149
(10) <u>Notify all holders of retail permits of the forms of</u>	150
<u>permissible identification for purposes of division (A) of section</u>	151
<u>4301.639 of the Revised Code;</u>	152
(11) Exercise all other powers expressly or by necessary	153
implication conferred upon the division by this chapter and	154
Chapter 4303. of the Revised Code, and all powers necessary for	155
the exercise or discharge of any power, duty, or function	156
expressly conferred or imposed upon the division by those	157
chapters.	158
(B) The division may do all of the following:	159
(1) Sue, but may be sued only in connection with the	160
execution of leases of real estate and the purchases and contracts	161
necessary for the operation of the state liquor stores that are	162
made under this chapter and Chapter 4303. of the Revised Code;	163
(2) Enter into leases and contracts of all descriptions and	164
acquire and transfer title to personal property with regard to the	165
sale, distribution, and storage of spirituous liquor within the	166
state;	167
(3) Terminate at will any lease entered into pursuant to	168
division (B)(2) of this section upon first giving ninety days'	169
notice in writing to the lessor of its intention to do so;	170
(4) Fix the wholesale and retail prices at which the various	171
classes, varieties, and brands of spirituous liquor shall be sold	172
by the division. Those retail prices shall be the same at all	173
state liquor stores, except to the extent that a price	174
differential is required to collect a county sales tax levied	175
pursuant to section 5739.021 of the Revised Code and for which tax	176
the tax commissioner has authorized prepayment pursuant to section	177

5739.05 of the Revised Code. In fixing selling prices, the 178
division shall compute an anticipated gross profit at least 179
sufficient to provide in each calendar year all costs and expenses 180
of the division and also an adequate working capital reserve for 181
the division. The gross profit shall not exceed forty per cent of 182
the retail selling price based on costs of the division, and in 183
addition the sum required by section 4301.12 of the Revised Code 184
to be paid into the state treasury. An amount equal to one and 185
one-half per cent of that gross profit shall be paid into the 186
statewide treatment and prevention fund created by section 4301.30 187
of the Revised Code and be appropriated by the general assembly 188
from the fund to the department of alcohol and drug addiction 189
services as provided in section 4301.30 of the Revised Code. 190

On spirituous liquor manufactured in this state from the 191
juice of grapes or fruits grown in this state, the division shall 192
compute an anticipated gross profit of not to exceed ten per cent. 193

The wholesale prices fixed under this division shall be at a 194
discount of not less than six per cent of the retail selling 195
prices as determined by the division in accordance with this 196
section. 197

(C) The division may approve the expansion or diminution of a 198
premises to which a liquor permit has been issued and may adopt 199
standards governing such an expansion or diminution. 200

Sec. 4301.639. (A) No permit holder, agent or employee of a 201
permit holder, or any other person may be found guilty of a 202
violation of any section of this chapter or any rule of the liquor 203
control commission in which age is an element of the offense, if 204
the liquor control commission or any court of record finds all of 205
the following: 206

(1) That the person buying, at the time of so doing, 207
exhibited to the permit holder, the agent or employee of the 208

permit holder, or the other person a driver's or commercial 209
driver's license ~~or~~, an identification card issued under sections 210
4507.50 to 4507.52 of the Revised Code ~~showing, or a military~~ 211
identification card issued by the United States department of 212
defense, that displays a picture of the individual for whom the 213
license or card was issued and shows that the person buying was 214
then at least twenty-one years of age, if the person was buying 215
beer as defined in section 4301.01 of the Revised Code or 216
intoxicating liquor, or that the person was then at least eighteen 217
years of age, if the person was buying any low-alcohol beverage; 218

(2) That the permit holder, the agent or employee of the 219
permit holder, or the other person made a bona fide effort to 220
ascertain the true age of the person buying by checking the 221
identification presented, at the time of the purchase, to 222
ascertain that the description on the identification compared with 223
the appearance of the buyer and that the identification presented 224
had not been altered in any way; 225

(3) That the permit holder, the agent or employee of the 226
permit holder, or the other person had reason to believe that the 227
person buying was of legal age. 228

(B) In any hearing before the liquor control commission and 229
in any action or proceeding before a court of record in which a 230
defense is raised under division (A) of this section, the 231
registrar of motor vehicles or deputy registrar who issued an 232
identification card under sections 4507.50 to 4507.52 of the 233
Revised Code shall be permitted to submit certified copies of the 234
records, in the registrar's or deputy's possession, of that 235
issuance in lieu of the testimony of the personnel of or 236
contractors with the bureau of motor vehicles at the hearing, 237
action, or proceeding. 238

(C) The defense provided by division (A) of this section is 239
in addition to the affirmative defense provided by section 240

4301.611 of the Revised Code. 241

Section 2. That existing sections 4301.10 and 4301.639 of the 242
Revised Code are hereby repealed. 243

Section 3. The Division of Liquor Control shall provide the 244
notification required by division (A)(10) of section 4301.10 of 245
the Revised Code, as amended by this act, to holders of retail 246
permits on the effective date of this act not later than ninety 247
days after that effective date. 248