

As Introduced

129th General Assembly
Regular Session
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H. B. No. 356

Representative Ramos

Cosponsors: Representatives Hagan, R., Henne, Adams, J., Young, Yuko,
Ashford, Milkovich, Letson

—

A BILL

To amend section 4301.01 and to enact section 4301.71 1
of the Revised Code to increase the legally 2
permitted alcohol content of beer and to generally 3
prohibit the inclusion of caffeine or other 4
stimulants in beer containing more than 12% of 5
alcohol by volume. 6

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

Section 1. That section 4301.01 be amended and section 7
4301.71 of the Revised Code be enacted to read as follows: 8

Sec. 4301.01. (A) As used in the Revised Code: 9

(1) "Intoxicating liquor" and "liquor" include all liquids 10
and compounds, other than beer, containing one-half of one per 11
cent or more of alcohol by volume which are fit to use for 12
beverage purposes, from whatever source and by whatever process 13
produced, by whatever name called, and whether they are medicated, 14
proprietary, or patented. "Intoxicating liquor" and "liquor" 15
include wine even if it contains less than four per cent of 16
alcohol by volume, mixed beverages even if they contain less than 17
four per cent of alcohol by volume, cider, alcohol, and all solids 18

and confections which contain any alcohol. 19

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 20
4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the 21
Revised Code, "sale" and "sell" include exchange, barter, gift, 22
offer for sale, sale, distribution and delivery of any kind, and 23
the transfer of title or possession of beer and intoxicating 24
liquor either by constructive or actual delivery by any means or 25
devices whatever, including the sale of beer or intoxicating 26
liquor by means of a controlled access alcohol and beverage 27
cabinet pursuant to section 4301.21 of the Revised Code. "Sale" 28
and "sell" do not include the mere solicitation of orders for beer 29
or intoxicating liquor from the holders of permits issued by the 30
division of liquor control authorizing the sale of the beer or 31
intoxicating liquor, but no solicitor shall solicit any such 32
orders until the solicitor has been registered with the division 33
pursuant to section 4303.25 of the Revised Code. 34

(3) "Vehicle" includes all means of transportation by land, 35
by water, or by air, and everything made use of in any way for 36
such transportation. 37

(B) As used in this chapter: 38

(1) "Alcohol" means ethyl alcohol, whether rectified or 39
diluted with water or not, whatever its origin may be, and 40
includes synthetic ethyl alcohol. "Alcohol" does not include 41
denatured alcohol and wood alcohol. 42

(2) "Beer" includes all beverages brewed or fermented wholly 43
or in part from malt products and containing one-half of one per 44
cent or more, but not more than ~~twelve~~ twenty-one per cent, of 45
alcohol by volume. 46

(3) "Wine" includes all liquids fit to use for beverage 47
purposes containing not less than one-half of one per cent of 48
alcohol by volume and not more than twenty-one per cent of alcohol 49

by volume, which is made from the fermented juices of grapes, 50
fruits, or other agricultural products, except that as used in 51
sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the 52
Revised Code, and, for purposes of determining the rate of the tax 53
that applies, division (B) of section 4301.43 of the Revised Code, 54
"wine" does not include cider. 55

(4) "Mixed beverages," such as bottled and prepared cordials, 56
cocktails, and highballs, are products obtained by mixing any type 57
of whiskey, neutral spirits, brandy, gin, or other distilled 58
spirits with, or over, carbonated or plain water, pure juices from 59
flowers and plants, and other flavoring materials. The completed 60
product shall contain not less than one-half of one per cent of 61
alcohol by volume and not more than twenty-one per cent of alcohol 62
by volume. 63

(5) "Spirituous liquor" includes all intoxicating liquors 64
containing more than twenty-one per cent of alcohol by volume. 65

(6) "Sealed container" means any container having a capacity 66
of not more than one hundred twenty-eight fluid ounces, the 67
opening of which is closed to prevent the entrance of air. 68

(7) "Person" includes firms and corporations. 69

(8) "Manufacture" includes all processes by which beer or 70
intoxicating liquor is produced, whether by distillation, 71
rectifying, fortifying, blending, fermentation, or brewing, or in 72
any other manner. 73

(9) "Manufacturer" means any person engaged in the business 74
of manufacturing beer or intoxicating liquor. 75

(10) "Wholesale distributor" and "distributor" means a person 76
engaged in the business of selling to retail dealers for purposes 77
of resale. 78

(11) "Hotel" has the same meaning as in section 3731.01 of 79

the Revised Code, subject to the exceptions mentioned in section 80
3731.03 of the Revised Code. 81

(12) "Restaurant" means a place located in a permanent 82
building provided with space and accommodations wherein, in 83
consideration of the payment of money, hot meals are habitually 84
prepared, sold, and served at noon and evening, as the principal 85
business of the place. "Restaurant" does not include pharmacies, 86
confectionery stores, lunch stands, night clubs, and filling 87
stations. 88

(13) "Club" means a corporation or association of individuals 89
organized in good faith for social, recreational, benevolent, 90
charitable, fraternal, political, patriotic, or athletic purposes, 91
which is the owner, lessor, or occupant of a permanent building or 92
part of a permanent building operated solely for those purposes, 93
membership in which entails the prepayment of regular dues, and 94
includes the place so operated. 95

(14) "Night club" means a place operated for profit, where 96
food is served for consumption on the premises and one or more 97
forms of amusement are provided or permitted for a consideration 98
that may be in the form of a cover charge or may be included in 99
the price of the food and beverages, or both, purchased by 100
patrons. 101

(15) "At retail" means for use or consumption by the 102
purchaser and not for resale. 103

(16) "Pharmacy" means an establishment, as defined in section 104
4729.01 of the Revised Code, that is under the management or 105
control of a licensed pharmacist in accordance with section 106
4729.27 of the Revised Code. 107

(17) "Enclosed shopping center" means a group of retail sales 108
and service business establishments that face into an enclosed 109
mall, share common ingress, egress, and parking facilities, and 110

are situated on a tract of land that contains an area of not less 111
than five hundred thousand square feet. "Enclosed shopping center" 112
also includes not more than one business establishment that is 113
located within a free-standing building on such a tract of land, 114
so long as the sale of beer and intoxicating liquor on the tract 115
of land was approved in an election held under former section 116
4301.353 of the Revised Code. 117

(18) "Controlled access alcohol and beverage cabinet" means a 118
closed container, either refrigerated, in whole or in part, or 119
nonrefrigerated, access to the interior of which is restricted by 120
means of a device that requires the use of a key, magnetic card, 121
or similar device and from which beer, intoxicating liquor, other 122
beverages, or food may be sold. 123

(19) "Community facility" means either of the following: 124

(a) Any convention, sports, or entertainment facility or 125
complex, or any combination of these, that is used by or 126
accessible to the general public and that is owned or operated in 127
whole or in part by the state, a state agency, or a political 128
subdivision of the state or that is leased from, or located on 129
property owned by or leased from, the state, a state agency, a 130
political subdivision of the state, or a convention facilities 131
authority created pursuant to section 351.02 of the Revised Code; 132

(b) An area designated as a community entertainment district 133
pursuant to section 4301.80 of the Revised Code. 134

(20) "Low-alcohol beverage" means any brewed or fermented 135
malt product, or any product made from the fermented juices of 136
grapes, fruits, or other agricultural products, that contains 137
either no alcohol or less than one-half of one per cent of alcohol 138
by volume. The beverages described in division (B)(20) of this 139
section do not include a soft drink such as root beer, birch beer, 140
or ginger beer. 141

(21) "Cider" means all liquids fit to use for beverage 142
purposes that contain one-half of one per cent of alcohol by 143
volume, but not more than six per cent of alcohol by weight, and 144
that are made through the normal alcoholic fermentation of the 145
juice of sound, ripe apples, including, without limitation, 146
flavored, sparkling, or carbonated cider and cider made from pure 147
condensed apple must. 148

(22) "Sales area or territory" means an exclusive geographic 149
area or territory that is assigned to a particular A or B permit 150
holder and that either has one or more political subdivisions as 151
its boundaries or consists of an area of land with readily 152
identifiable geographic boundaries. "Sales area or territory" does 153
not include, however, any particular retail location in an 154
exclusive geographic area or territory that had been assigned to 155
another A or B permit holder before April 9, 2001. 156

Sec. 4301.71. Except as otherwise provided in this section, 157
no beer containing more than twelve per cent of alcohol by volume 158
shall include caffeine or other stimulants, including guarana, 159
ginseng, or taurine. 160

This section does not apply to beer that has incidental 161
amounts of caffeine from coffee, chocolate, or tea. 162

Section 2. That existing section 4301.01 of the Revised Code 163
is hereby repealed. 164