

As Introduced

**130th General Assembly
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H. B. No. 391

Representative Ramos

**Cosponsors: Representatives Rogers, Driehaus, Lundy, Henne, Phillips,
Sheehy, Hagan, R., Reece, Slesnick, Becker, Wachtmann, Roegner, Blessing,
Milkovich, Adams, J., Brenner, Blair, Antonio, Maag, Foley**

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A B I L L

To amend section 4301.01 and to enact section 4301.71 1
of the Revised Code to allow beer manufacturers to 2
manufacture beer containing not more than 21% of 3
alcohol by volume beginning on the effective date 4
of this act, and, beginning one year after the 5
effective date of this act, to allow the sale and 6
distribution of beer containing not more than 21% 7
of alcohol by volume in this state by increasing 8
the legally permitted alcohol content of beer from 9
12% to 21% and to generally prohibit the inclusion 10
of caffeine or other stimulants in beer containing 11
more than 12% of alcohol by volume. 12

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

Section 1. That section 4301.01 be amended and section 13
4301.71 of the Revised Code be enacted to read as follows: 14

Sec. 4301.01. (A) As used in the Revised Code: 15

(1) "Intoxicating liquor" and "liquor" include all liquids 16
and compounds, other than beer, containing one-half of one per 17

cent or more of alcohol by volume which are fit to use for 18
beverage purposes, from whatever source and by whatever process 19
produced, by whatever name called, and whether they are medicated, 20
proprietary, or patented. "Intoxicating liquor" and "liquor" 21
include cider and alcohol, and all solids and confections which 22
contain one-half of one per cent or more of alcohol by volume. 23

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 24
4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the 25
Revised Code, "sale" and "sell" include exchange, barter, gift, 26
offer for sale, sale, distribution and delivery of any kind, and 27
the transfer of title or possession of beer and intoxicating 28
liquor either by constructive or actual delivery by any means or 29
devices whatever, including the sale of beer or intoxicating 30
liquor by means of a controlled access alcohol and beverage 31
cabinet pursuant to section 4301.21 of the Revised Code. "Sale" 32
and "sell" do not include the mere solicitation of orders for beer 33
or intoxicating liquor from the holders of permits issued by the 34
division of liquor control authorizing the sale of the beer or 35
intoxicating liquor, but no solicitor shall solicit any such 36
orders until the solicitor has been registered with the division 37
pursuant to section 4303.25 of the Revised Code. 38

(3) "Vehicle" includes all means of transportation by land, 39
by water, or by air, and everything made use of in any way for 40
such transportation. 41

(B) As used in this chapter: 42

(1) "Alcohol" means ethyl alcohol, whether rectified or 43
diluted with water or not, whatever its origin may be, and 44
includes synthetic ethyl alcohol. "Alcohol" does not include 45
denatured alcohol and wood alcohol. 46

(2) "Beer" includes all beverages brewed or fermented wholly 47
or in part from malt products and containing one-half of one per 48

cent or more, but not more than ~~twelve~~ twenty-one per cent, of 49
alcohol by volume. 50

(3) "Wine" includes all liquids fit to use for beverage 51
purposes containing not less than one-half of one per cent of 52
alcohol by volume and not more than twenty-one per cent of alcohol 53
by volume, which is made from the fermented juices of grapes, 54
fruits, or other agricultural products, except that as used in 55
sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the 56
Revised Code, and, for purposes of determining the rate of the tax 57
that applies, division (B) of section 4301.43 of the Revised Code, 58
"wine" does not include cider. 59

(4) "Mixed beverages" include bottled and prepared cordials, 60
cocktails, highballs, and solids and confections that are obtained 61
by mixing any type of whiskey, neutral spirits, brandy, gin, or 62
other distilled spirits with, or over, carbonated or plain water, 63
pure juices from flowers and plants, and other flavoring 64
materials. The completed product shall contain not less than 65
one-half of one per cent of alcohol by volume and not more than 66
twenty-one per cent of alcohol by volume. 67

(5) "Spirituous liquor" includes all intoxicating liquors 68
containing more than twenty-one per cent of alcohol by volume. 69

(6) "Sealed container" means any container having a capacity 70
of not more than one hundred twenty-eight fluid ounces, the 71
opening of which is closed to prevent the entrance of air. 72

(7) "Person" includes firms and corporations. 73

(8) "Manufacture" includes all processes by which beer or 74
intoxicating liquor is produced, whether by distillation, 75
rectifying, fortifying, blending, fermentation, or brewing, or in 76
any other manner. 77

(9) "Manufacturer" means any person engaged in the business 78
of manufacturing beer or intoxicating liquor. 79

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

(11) "Hotel" has the same meaning as in section 3731.01 of the Revised Code, subject to the exceptions mentioned in section 3731.03 of the Revised Code.

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

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

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

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

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

4729.27 of the Revised Code. 111

(17) "Enclosed shopping center" means a group of retail sales 112
and service business establishments that face into an enclosed 113
mall, share common ingress, egress, and parking facilities, and 114
are situated on a tract of land that contains an area of not less 115
than five hundred thousand square feet. "Enclosed shopping center" 116
also includes not more than one business establishment that is 117
located within a free-standing building on such a tract of land, 118
so long as the sale of beer and intoxicating liquor on the tract 119
of land was approved in an election held under former section 120
4301.353 of the Revised Code. 121

(18) "Controlled access alcohol and beverage cabinet" means a 122
closed container, either refrigerated, in whole or in part, or 123
nonrefrigerated, access to the interior of which is restricted by 124
means of a device that requires the use of a key, magnetic card, 125
or similar device and from which beer, intoxicating liquor, other 126
beverages, or food may be sold. 127

(19) "Community facility" means either of the following: 128

(a) Any convention, sports, or entertainment facility or 129
complex, or any combination of these, that is used by or 130
accessible to the general public and that is owned or operated in 131
whole or in part by the state, a state agency, or a political 132
subdivision of the state or that is leased from, or located on 133
property owned by or leased from, the state, a state agency, a 134
political subdivision of the state, or a convention facilities 135
authority created pursuant to section 351.02 of the Revised Code; 136

(b) An area designated as a community entertainment district 137
pursuant to section 4301.80 of the Revised Code. 138

(20) "Low-alcohol beverage" means any brewed or fermented 139
malt product, or any product made from the fermented juices of 140
grapes, fruits, or other agricultural products, that contains 141

either no alcohol or less than one-half of one per cent of alcohol 142
by volume. The beverages described in division (B)(20) of this 143
section do not include a soft drink such as root beer, birch beer, 144
or ginger beer. 145

(21) "Cider" means all liquids fit to use for beverage 146
purposes that contain one-half of one per cent of alcohol by 147
volume, but not more than six per cent of alcohol by weight, and 148
that are made through the normal alcoholic fermentation of the 149
juice of sound, ripe apples, including, without limitation, 150
flavored, sparkling, or carbonated cider and cider made from pure 151
condensed apple must. 152

(22) "Sales area or territory" means an exclusive geographic 153
area or territory that is assigned to a particular A or B permit 154
holder and that either has one or more political subdivisions as 155
its boundaries or consists of an area of land with readily 156
identifiable geographic boundaries. "Sales area or territory" does 157
not include, however, any particular retail location in an 158
exclusive geographic area or territory that had been assigned to 159
another A or B permit holder before April 9, 2001. 160

Sec. 4301.71. Except as otherwise provided in this section, 161
no beer containing more than twelve per cent of alcohol by volume 162
shall include caffeine or other stimulants, including guarana, 163
ginseng, or taurine. 164

This section does not apply to beer that has incidental 165
amounts of caffeine from coffee, chocolate, or tea. 166

Section 2. That existing section 4301.01 of the Revised Code 167
is hereby repealed. 168

Section 3. Sections 1 and 2 of this act shall take effect one 169
year after the effective date of this act. 170

Section 4. Notwithstanding section 4303.02 or 4303.022 of the 171
Revised Code, on the effective date of this act, the holder of an 172
A-1 or A-1c permit may manufacture beer containing not more than 173
twenty-one per cent of alcohol by volume. Nothing in this section 174
authorizes any person to sell or distribute beer in this state 175
containing more than twelve per cent of alcohol by volume prior to 176
one year after the effective date of this act. 177