

**As Passed by the House**

**130th General Assembly  
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**Sub. S. B. No. 173**

**Senator Hughes**

**Cosponsors: Senators Seitz, Uecker, Schiavoni, Balderson, Coley, Eklund,  
Hite, Jordan, Kearney, Oelslager  
Representatives Dovilla, Buchy, Gerberry, Amstutz, Barnes, Beck, Blessing,  
Boyd, Brenner, Brown, Burkley, Cera, Conditt, DeVitis, Duffey, Hackett,  
McClain, Milkovich, Pelanda, Ramos, Retherford, Rogers, Ruhl, Stebelton,  
Young**

**—**

**A B I L L**

To amend sections 4301.171, 4303.184, 4303.208, and 1  
4303.251 of the Revised Code to modify the law 2  
governing tasting samples of beer and intoxicating 3  
liquor and to allow an F-6 liquor permit to be 4  
issued for the same location as an F-8 liquor 5  
permit, provided that the two permits are not 6  
exercised concurrently. 7

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

**Section 1.** That sections 4301.171, 4303.184, 4303.208, and 8  
4303.251 of the Revised Code be amended to read as follows: 9

**Sec. 4301.171.** (A) As used in this section: 10

(1) "Broker" and "solicitor" have the same meanings as in 11  
rules adopted by the superintendent of liquor control under 12  
section 4303.25 of the Revised Code. 13

(2) "Tasting sample" means a small amount of spirituous liquor that is provided in a serving of not more than a quarter ounce of spirituous liquor and, if provided, not more than one ounce of nonalcoholic mixer to an authorized purchaser and that allows the purchaser to determine, by tasting only, the quality and character of the beverage.

(3) "Trade marketing company" means a company that solicits the purchase of beer and intoxicating liquor and educates the public about beer and intoxicating liquor.

(4) "Trade marketing professional" means an individual who is an employee of, or is under contract with, a trade marketing company and who has successfully completed a training program described in section 4301.253 of the Revised Code.

(B) Notwithstanding section 4301.24 of the Revised Code, an agency store to which a D-8 permit has been issued may allow a trade marketing professional, broker, or solicitor to offer for sale tasting samples of spirituous liquor when conducted in accordance with this section. A tasting sample shall not be sold for the purpose of general consumption.

(C) Tasting samples of spirituous liquor may be offered for sale at an agency store by a trade marketing professional, broker, or solicitor if all of the following apply:

(1) The tasting samples are sold only in the area of the agency store in which spirituous liquor is sold and that area is open to the public.

(2) The tasting samples are sold only by the trade marketing professional, broker, or solicitor.

(3) The spirituous liquor is registered under division (A)(8) of section 4301.10 of the Revised Code.

(4) Not less than ~~five~~ ten business days prior to the sale,

the trade marketing professional, broker, or solicitor has 44  
provided written notice to the division of liquor control of the 45  
date and time of the sampling, and of the type and brand of 46  
spirituous liquor to be sampled at the agency store. 47

(D) A sale of tasting samples of spirituous liquor is subject 48  
to rules adopted by the superintendent of liquor control or the 49  
liquor control commission. 50

(E) An offering for sale of tasting samples of spirituous 51  
liquor shall be limited to a period of not more than two hours. 52

(F) For purposes of offering for sale tasting samples of 53  
spirituous liquor, ~~an a trade marketing professional, broker, or~~ 54  
~~solicitor shall purchase the spirituous liquor from the~~ agency 55  
store ~~shall purchase the spirituous liquor~~ at the current retail 56  
price. An authorized purchaser shall be charged not less than 57  
fifty cents for each tasting sample of spirituous liquor. ~~However,~~ 58  
~~the aggregate amount charged for the sale of tasting samples shall~~ 59  
~~be sufficient to cover the wholesale price of the spirituous~~ 60  
~~liquor being tasted as that price is fixed under division (B)(4)~~ 61  
~~of section 4301.10 of the Revised Code. Of the amount collected~~ 62  
~~from the sale of tasting samples of spirituous liquor, the trade~~ 63  
~~marketing professional, broker, or solicitor shall reimburse the~~ 64  
~~agency store for the amount of the retail price of the spirituous~~ 65  
~~liquor.~~ When the sale of tasting samples of spirituous liquor at 66  
an agency store is completed, any bottles of spirituous liquor 67  
used to provide tasting samples that are not empty shall be marked 68  
as "sample" and removed from the agency store by the trade 69  
marketing professional, broker, or solicitor, as applicable. 70

(G) No trade marketing professional, broker, or solicitor 71  
shall do any of the following: 72

(1) Advertise the offering for sale of tasting samples of 73  
spirituous liquor other than at the agency store where the tasting 74

samples will be offered; 75

(2) Solicit orders or make sales of tasting samples of 76  
spirituous liquor for quantities greater than those specified in 77  
division (G)(3) of this section; 78

(3) Allow any authorized purchaser to consume more than four 79  
tasting samples of spirituous liquor per day. 80

(H) The purchase of a tasting sample of spirituous liquor 81  
shall not be contingent upon the purchase of any other product 82  
from an agency store. 83

(I) No employee of an agency store that allows the sale of 84  
tasting samples of spirituous liquor shall purchase or consume a 85  
tasting sample while on duty. 86

(J) If an employee of an agency store that allows the sale of 87  
tasting samples of spirituous liquor consumes a tasting sample of 88  
spirituous liquor, the employee shall not perform the employee's 89  
duties and responsibilities at the agency store on the day the 90  
tasting sample is consumed. 91

(K) No person under twenty-one years of age shall consume a 92  
tasting sample of spirituous liquor. 93

(L) Not more than ~~five~~ ten events at which the sale of 94  
tasting samples of spirituous liquor are offered shall occur at an 95  
agency store in a calendar month provided that: 96

(1) Not more than two events shall occur in the same day; and 97

(2) There is not less than one hour between the end of one 98  
event and the beginning of the next event. 99

(M) No trade marketing professional, trade marketing company, 100  
broker, solicitor, owner or operator of an agency store, or an 101  
agent or employee of the owner or operator shall violate this 102  
section or any rules adopted by the superintendent or the 103  
commission for the purposes of this section. 104

Sec. 4303.184. (A) Subject to division (B) of this section, a D-8 permit may be issued to either of the following:

(1) An agency store;

(2) The holder of a C-1, C-2, or C-2x permit issued to a retail store that has ~~either~~ any of the following characteristics:

(a) The store has at least five thousand five hundred square feet of floor area, and it generates more than sixty per cent of its sales in general merchandise items and food for consumption off the premises where sold.

(b) The store is located in a municipal corporation or township with a population of five thousand or less, has at least four thousand five hundred square feet of floor area, and generates more than sixty per cent of its sales in general merchandise items and food for consumption off the premises where sold.

(c) Wine constitutes at least sixty per cent of the value of the store's inventory.

(B) A D-8 permit may be issued to the holder of a C-1, C-2, or C-2x permit only if the premises of the permit holder are located in a precinct, or at a particular location in a precinct, in which the sale of beer, wine, or mixed beverages is permitted for consumption off the premises where sold. Sales under a D-8 permit are not affected by whether sales for consumption on the premises where sold are permitted in the precinct or at the particular location where the D-8 premises are located.

(C)(1) The holder of a D-8 permit described in division (A)(2) of this section may sell tasting samples of beer, wine, and mixed beverages, but not spirituous liquor, at retail, for consumption on the premises where sold in an amount not to exceed two ounces or another amount designated by rule of the liquor

control commission. A tasting sample shall not be sold for general consumption. 135  
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(2) The holder of a D-8 permit described in division (A)(1) of this section may allow the sale of tasting samples of spirituous liquor in accordance with section 4301.171 of the Revised Code. 137  
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(3) No D-8 permit holder described in division (A)(2) of this section shall allow any authorized purchaser to consume more than four tasting samples of beer, wine, or mixed beverages, or any combination of beer, wine, or mixed beverages, per day. 141  
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(D)(1) Notwithstanding sections 4303.11 and 4303.121 of the Revised Code, the holder of a D-8 permit described in division (A)(2) of this section may sell beer that is dispensed from containers that have a capacity equal to or greater than five and one-sixth gallons if all of the following conditions are met: 145  
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(a) A product registration fee for the beer has been paid as required in division (A)(8)(b) of section 4301.10 of the Revised Code. 150  
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(b) The beer is dispensed only in glass containers whose capacity does not exceed one gallon and not for consumption on the premises where sold. 153  
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(c) The containers are sealed, marked, and transported in accordance with division (E) of section 4301.62 of the Revised Code. 156  
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(d) The containers have been cleaned immediately before being filled in accordance with rule 4301:1-1-28 of the Administrative Code. 159  
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(2) Beer that is sold and dispensed under division (D)(1) of this section is subject to both of the following: 162  
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(a) All applicable rules adopted by the liquor control 164

commission, including, but not limited to, rule 4301:1-1-27 and 165  
rule 4301:1-1-72 of the Administrative Code; 166

(b) All applicable federal laws and regulations. 167

(E) The privileges authorized for the holder of a D-8 permit 168  
described in division (A)(2) of this section may only be exercised 169  
in conjunction with and during the hours of operation authorized 170  
by a C-1, C-2, C-2x, or D-6 permit. 171

(F) A D-8 permit shall not be transferred to another 172  
location. 173

(G) The fee for the D-8 permit is five hundred dollars. 174

**Sec. 4303.208.** (A)(1) The division of liquor control may 175  
issue an F-8 permit to a not-for-profit organization that manages, 176  
for the benefit of the public and by contract with a political 177  
subdivision of this state, publicly owned property to sell beer or 178  
intoxicating liquor by the individual drink at specific events 179  
conducted on the publicly owned property and appurtenant streets, 180  
but only if, and then only at times at which, the sale of beer and 181  
intoxicating liquor on the premises is otherwise permitted by law. 182  
Additionally, an F-8 permit may be issued only if the publicly 183  
owned property is located in a county that has a population of 184  
between seven hundred fifty thousand and nine hundred thousand on 185  
July 10, 2007. 186

(2) The premises on which an F-8 permit will be used shall be 187  
clearly defined and sufficiently restricted to allow proper 188  
supervision of the permit's use by state and local law enforcement 189  
officers. Sales under an F-8 permit shall be confined to the same 190  
hours permitted to the holder of a D-3 permit. 191

(3) The fee for an F-8 permit is one thousand seven hundred 192  
dollars. An F-8 permit is effective for a period not to exceed 193  
nine months as specified in the permit. An F-8 permit is not 194

transferable or renewable. However, the holder of an F-8 permit 195  
may apply for a new F-8 permit at any time. An F-8 permit is not 196  
effective until any F-8 permit currently held expires. The holder 197  
of an F-8 permit shall make sales only at those specific events 198  
about which the permit holder has notified in advance the division 199  
of liquor control, the department of public safety, and the chief, 200  
sheriff, or other principal peace officer of the local law 201  
enforcement agencies having jurisdiction over the premises. 202

(B)(1) An application for the issuance of an F-8 permit is 203  
subject to the notice and hearing requirements established in 204  
division (A) of section 4303.26 of the Revised Code. 205

(2) The liquor control commission shall adopt under Chapter 206  
119. of the Revised Code rules necessary to administer this 207  
section. 208

(C) No F-8 permit holder shall sell beer or intoxicating 209  
liquor beyond the hours of sale allowed by the permit. This 210  
division imposes strict liability on the holder of an F-8 permit 211  
and on any officer, agent, or employee of that permit holder. 212

(D) Nothing in this section prohibits the division from 213  
issuing an F-2 or F-6 permit for a specific event not conducted by 214  
the holder of an F-8 permit provided that the holder of the F-8 215  
permit certifies to the division that it will not exercise its 216  
permit privileges during that specific event. 217

**Sec. 4303.251.** (A) A manufacturer, supplier, broker, or 218  
wholesale distributor of beer or intoxicating liquor, or an agent, 219  
solicitor, or salesperson who is registered under section 4303.25 220  
of the Revised Code and who represents the manufacturer, supplier, 221  
broker, or wholesale distributor of beer or intoxicating liquor, 222  
may conduct consumer product instruction, or provide sample 223  
servings of the manufacturer's, supplier's, broker's, or wholesale 224  
distributor's products, on the premises of a retail permit holder 225



who is authorized to sell the products for on-premises 226  
consumption, without the manufacturer, supplier, broker, wholesale 227  
distributor, agent, solicitor, or salesperson having to be issued 228  
a retail permit under this chapter. The person providing a sample 229  
serving shall purchase the beer or intoxicating liquor at the 230  
ordinary retail price from the retail permit holder whose premises 231  
are involved. The liquor control commission shall adopt rules in 232  
accordance with Chapter 119. of the Revised Code to implement this 233  
section. 234

(B) A manufacturer, supplier, or broker of beer, wine, or 235  
mixed beverages, or an agent, solicitor, or salesperson who is 236  
registered under section 4303.25 of the Revised Code and who 237  
represents the manufacturer, supplier, or broker of beer, wine, or 238  
mixed beverages, may conduct consumer product instruction, or 239  
provide sample servings of the manufacturer's, supplier's, or 240  
broker's products on the premises of a retail permit holder who 241  
holds a D-8 permit and who is authorized to sell the products for 242  
off-premises consumption, without the manufacturer, supplier, 243  
broker, agent, solicitor, or salesperson having to be issued a 244  
retail permit under this chapter. The person providing a sample 245  
serving shall purchase the beer, wine, or mixed beverages at the 246  
ordinary retail price from the D-8 permit holder and shall limit 247  
the amount and frequency of the sample servings to those 248  
authorized pursuant to the D-8 permit. The liquor control 249  
commission shall adopt rules in accordance with Chapter 119. of 250  
the Revised Code to implement this section. 251

Division (B) of this section does not apply to a wholesale 252  
distributor. 253

**Section 2.** That existing sections 4301.171, 4303.184, 254  
4303.208, and 4303.251 of the Revised Code are hereby repealed. 255