

As Passed by the Senate

**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**

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A B I L L

To amend sections 4301.171 and 4303.251 of the 1
Revised Code to modify the law governing tasting 2
samples of beer and intoxicating liquor. 3

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

Section 1. That sections 4301.171 and 4303.251 of the Revised 4
Code be amended to read as follows: 5

Sec. 4301.171. (A) As used in this section: 6

(1) "Broker" and "solicitor" have the same meanings as in 7
rules adopted by the superintendent of liquor control under 8
section 4303.25 of the Revised Code. 9

(2) "Tasting sample" means a small amount of spirituous 10
liquor that is provided in a serving of not more than a quarter 11
ounce of spirituous liquor and, if provided, not more than one 12
ounce of nonalcoholic mixer to an authorized purchaser and that 13
allows the purchaser to determine, by tasting only, the quality 14
and character of the beverage. 15

(3) "Trade marketing company" means a company that solicits 16
the purchase of beer and intoxicating liquor and educates the 17

public about beer and intoxicating liquor. 18

(4) "Trade marketing professional" means an individual who is 19
an employee of, or is under contract with, a trade marketing 20
company and who has successfully completed a training program 21
described in section 4301.253 of the Revised Code. 22

(B) Notwithstanding section 4301.24 of the Revised Code, an 23
agency store to which a D-8 permit has been issued may allow a 24
trade marketing professional, broker, or solicitor to offer for 25
sale tasting samples of spirituous liquor when conducted in 26
accordance with this section. A tasting sample shall not be sold 27
for the purpose of general consumption. 28

(C) Tasting samples of spirituous liquor may be offered for 29
sale at an agency store by a trade marketing professional, broker, 30
or solicitor if all of the following apply: 31

(1) The tasting samples are sold only in the area of the 32
agency store in which spirituous liquor is sold and that area is 33
open to the public. 34

(2) The tasting samples are sold only by the trade marketing 35
professional, broker, or solicitor. 36

(3) The spirituous liquor is registered under division (A)(8) 37
of section 4301.10 of the Revised Code. 38

(4) Not less than ~~five~~ ten business days prior to the sale, 39
the trade marketing professional, broker, or solicitor has 40
provided written notice to the division of liquor control of the 41
date and time of the sampling, and of the type and brand of 42
spirituous liquor to be sampled at the agency store. 43

(D) A sale of tasting samples of spirituous liquor is subject 44
to rules adopted by the superintendent of liquor control or the 45
liquor control commission. 46

(E) An offering for sale of tasting samples of spirituous 47

liquor shall be limited to a period of not more than two hours. 48

(F) For purposes of offering for sale tasting samples of 49
spirituous liquor, ~~an a trade marketing professional, broker, or~~ 50
~~solicitor shall purchase the spirituous liquor from the~~ agency 51
store ~~shall purchase the spirituous liquor~~ at the current retail 52
price. An authorized purchaser shall be charged not less than 53
fifty cents for each tasting sample of spirituous liquor. ~~However,~~ 54
~~the aggregate amount charged for the sale of tasting samples shall~~ 55
~~be sufficient to cover the wholesale price of the spirituous~~ 56
~~liquor being tasted as that price is fixed under division (B)(4)~~ 57
~~of section 4301.10 of the Revised Code. Of the amount collected~~ 58
~~from the sale of tasting samples of spirituous liquor, the trade~~ 59
~~marketing professional, broker, or solicitor shall reimburse the~~ 60
~~agency store for the amount of the retail price of the spirituous~~ 61
~~liquor.~~ When the sale of tasting samples of spirituous liquor at 62
an agency store is completed, any bottles of spirituous liquor 63
used to provide tasting samples that are not empty shall be marked 64
as "sample" and removed from the agency store by the trade 65
marketing professional, broker, or solicitor, as applicable. 66

(G) No trade marketing professional, broker, or solicitor 67
shall do any of the following: 68

(1) Advertise the offering for sale of tasting samples of 69
spirituous liquor other than at the agency store where the tasting 70
samples will be offered; 71

(2) Solicit orders or make sales of tasting samples of 72
spirituous liquor for quantities greater than those specified in 73
division (G)(3) of this section; 74

(3) Allow any authorized purchaser to consume more than four 75
tasting samples of spirituous liquor per day. 76

(H) The purchase of a tasting sample of spirituous liquor 77
shall not be contingent upon the purchase of any other product 78

from an agency store. 79

(I) No employee of an agency store that allows the sale of 80
tasting samples of spirituous liquor shall purchase or consume a 81
tasting sample while on duty. 82

(J) If an employee of an agency store that allows the sale of 83
tasting samples of spirituous liquor consumes a tasting sample of 84
spirituous liquor, the employee shall not perform the employee's 85
duties and responsibilities at the agency store on the day the 86
tasting sample is consumed. 87

(K) No person under twenty-one years of age shall consume a 88
tasting sample of spirituous liquor. 89

(L) Not more than ~~five~~ ten events at which the sale of 90
tasting samples of spirituous liquor are offered shall occur at an 91
agency store in a calendar month provided that: 92

(1) Not more than two events shall occur in the same day; and 93

(2) There is not less than one hour between the end of one 94
event and the beginning of the next event. 95

(M) No trade marketing professional, trade marketing company, 96
broker, solicitor, owner or operator of an agency store, or an 97
agent or employee of the owner or operator shall violate this 98
section or any rules adopted by the superintendent or the 99
commission for the purposes of this section. 100

Sec. 4303.251. (A) A manufacturer, supplier, broker, or 101
wholesale distributor of beer or intoxicating liquor, or an agent, 102
solicitor, or salesperson who is registered under section 4303.25 103
of the Revised Code and who represents the manufacturer, supplier, 104
broker, or wholesale distributor of beer or intoxicating liquor, 105
may conduct consumer product instruction, or provide sample 106
servings of the manufacturer's, supplier's, broker's, or wholesale 107
distributor's products, on the premises of a retail permit holder 108

who is authorized to sell the products for on-premises 109
consumption, without the manufacturer, supplier, broker, wholesale 110
distributor, agent, solicitor, or salesperson having to be issued 111
a retail permit under this chapter. The person providing a sample 112
serving shall purchase the beer or intoxicating liquor at the 113
ordinary retail price from the retail permit holder whose premises 114
are involved. The liquor control commission shall adopt rules in 115
accordance with Chapter 119. of the Revised Code to implement this 116
section. 117

(B) A manufacturer, supplier, or broker of beer, wine, or 118
mixed beverages, or an agent, solicitor, or salesperson who is 119
registered under section 4303.25 of the Revised Code and who 120
represents the manufacturer, supplier, or broker of beer, wine, or 121
mixed beverages, may conduct consumer product instruction, or 122
provide sample servings of the manufacturer's, supplier's, or 123
broker's products on the premises of a retail permit holder who 124
holds a D-8 permit and who is authorized to sell the products for 125
off-premises consumption, without the manufacturer, supplier, 126
broker, agent, solicitor, or salesperson having to be issued a 127
retail permit under this chapter. The person providing a sample 128
serving shall purchase the beer, wine, or mixed beverages at the 129
ordinary retail price from the D-8 permit holder and shall limit 130
the amount and frequency of the sample servings to those 131
authorized pursuant to the D-8 permit. The liquor control 132
commission shall adopt rules in accordance with Chapter 119. of 133
the Revised Code to implement this section. 134

Division (B) of this section does not apply to a wholesale 135
distributor. 136

Section 2. That existing sections 4301.171 and 4303.251 of 137
the Revised Code are hereby repealed. 138